

Q&As

on

AFL-CIO's Immigration Policy

Q: What Is the AFL-CIO's Immigration Policy?

A: The union movement's policy is to treat *all* workers as workers, and therefore build worker solidarity to combat exploitation and raise standards for all.

Throughout the history of our country, immigrants have played an important role in building our nation and its democratic institutions. Immigrants also have played a vital role in building the union movement. The AFL-CIO's immigration policy recognizes the important contributions foreign-born workers make to our economy and to our community, and it welcomes immigrant workers into our movement.

The trade union movement was built by immigrants. Irish ironworkers and German bricklayers—just to name a few—established working standards for all trades across the nation. From the birth of America's union movement, immigrant laborers have used all means available to fight for workers' rights. It is more important than ever that we stand alongside our immigrant brothers and sisters at a time when workers are under attack from corporate forces on all fronts.

We know from our long experience that employers try to destroy worker solidarity by attempting to divide workers along race, gender, and in the last decade, immigration status. The U.S. Chamber of Commerce's recent campaign to deny millions of workers the freedom to form unions by dividing them into "supervisors" and "non-supervisors" is the most recent example of this well-established union-busting tool of dividing workers into different "classes."

Q: Does the AFL-CIO Support Reform of our Immigration Laws?

A: Yes. Overhaul of our immigration system is long overdue. The current system is a blueprint for exploitation of workers—both native-born and foreign—and is feeding a multimillion-dollar criminal enterprise at the U.S.-Mexico border.

We believe America must have an immigration system that protects all workers within our borders, and at the same time guarantees the safety of our nation without compromising our fundamental civil rights and civil liberties.

Q: What Is the Cause of Illegal Immigration?

A: Globalization and the failure of the U.S. government to enforce workplace laws are pushing workers from their home countries and pulling them into the United States. Failed development policies and trade agreements have destroyed the economies of developing nations and forced workers to migrate in search of jobs. NAFTA, for example, destroyed the agricultural economy in Mexico. Millions of agricultural workers have lost their livelihoods and moved into Mexican urban areas to compete for jobs. This has lowered wages in urban centers and displaced workers who now have moved north, looking for work.

At the same time, lax enforcement of labor laws created an incentive for corporations to recruit and hire workers who came to the United States from Mexico without authorization to work—the undocumented. Because those workers are often unable to exercise their workplace rights, corporations have created an entire class of workers—numbering in the millions—who are forced to labor in substandard conditions. The only way to remove the economic incentive to exploit workers—and thus diminish illegal immigration—is to ensure that all workers have full labor rights.

Q: How Do Employers Benefit from Illegal Immigration?

A: Employers and contractors who rely on undocumented workers often are able to avoid abiding by U.S. workplace laws, gaining a substantial economic advantage over employers who play by the rules. In the construction industry, contractors often misclassify undocumented workers as “independent contractors” to avoid their responsibility to carry workers’ compensation insurance, pay required state and federal employment taxes and skirt various other legal requirements. The National Employment Law Project estimates that employers and contractors who regularly misclassify workers as “independent contractors” have a 30 percent competitive advantage over those who operate lawfully.

The U.S. Supreme Court handed employers yet another economic incentive to recruit and employ undocumented workers in its 2002 decision in the *Hoffman Plastics Compounds v. NLRB* case. The court ruled that undocumented workers are not entitled to back pay, the only monetary remedy available under the National Labor Relations Act (NLRA). In other words, an employer who illegally fires an undocumented worker during an organizing campaign faces no out-of-pocket cost for that illegal action. Unfortunately, courts have extended that rule to other employment laws, including workers’ compensation laws. In a perverse example, one state court determined that a contractor whose negligence on a construction site caused a worker to become incapacitated was not required to compensate the worker for lost earnings at the rate he was earning in New York but rather at the rate he would have been earning in Mexico. Essentially, employers and contractors now are able to import the workplace standards of developing countries into the United States.

Q: Don't Undocumented Workers Benefit from Being in the United States Illegally?

A: In our view, illegal immigration is driven by economic incentives that allow employers to exploit a certain class of workers—currently, undocumented workers. Illegal immigration benefits no one except employers who want to operate at the margin and need an exploitable workforce to do so. Blaming workers for their own exploitation serves only to move the spotlight away from improper corporate behavior by focusing it on the workers.

Q: How Should the Immigration Laws Be Changed?

A: The current immigration system provides no protections for either native- or foreign-born workers. Corporations have the best of all worlds right now: They are able to use the broken immigration laws to recruit and import undocumented workers and at the same time avoid their obligations to abide by U.S. labor and employment laws. The result is that corporations have been able to create a secondary class of workers in our nation numbering in the millions—the “undocumented,” whose inability to meaningfully exercise their labor rights has allowed employers to lower working standards for all workers.

Immigration law reform has to make protection of workers its main priority. That means reform must satisfy five interrelated principles: (1) It has to provide a mechanism for currently undocumented workers to be able to exercise their labor rights, which means it must provide a real path to legalization; (2) It must require the government to enforce labor and employment laws vigorously in order to remove the employers' incentive to recruit and employ undocumented workers; (3) It must reject the creation of temporary worker programs (also known as “guest worker” programs) that harm workers; (4) It must guarantee that new foreign workers will be able to fully exercise their labor rights; (5) It must preserve social protections and guarantee civil rights and civil liberties to all.

Q: Why Does the AFL-CIO Oppose Guest Worker Programs?

A: Guest worker programs allow corporations to turn permanent jobs into temporary jobs staffed by foreign workers who often are unable to exercise their labor rights. Under any guest worker program, a corporation has the ability to import foreign workers who remain under an employer's control, not only for their livelihood, but also for their legal immigration status. Workers are unlikely to complain about substandard working conditions because if they do they could lose their jobs and face deportation.

Guest worker programs also transform the fundamental nature of U.S. society. We are a nation of citizens, not guests. Workers who are imported into the United States only for their labor, and only temporarily, have no incentive to invest in their communities, to buy homes or to engage in the long-term struggle for good jobs, health care or pensions. Guest worker programs essentially create a second class of citizens who remain marginalized with no voice in our democracy.

Q: Why Does the AFL-CIO Support ‘Legalization’?

A: The current immigration system operates entirely to benefit corporate interests. We recognize that the law-breakers are the employers and contractors who have been freely employing undocumented workers to maximize their profits at the expense of established U.S. workplace standards. We recognize that the current system has allowed contractors and employers to create an underclass of workers who number in the tens of millions and whom they can exploit for economic gain. We also know these workers don’t labor in isolation; they work right alongside U.S. citizen workers. We know the anti-worker corporate argument that immigrants are doing the work U.S. workers won’t do is false. The overwhelming majority of jobs in all industries across the economy—more than 80 percent in construction and more than 86 percent in the service industry—are being done by U.S. citizens and legal immigrant workers. Yet, there is overwhelming evidence that in industries that rely on immigrant labor, employers and contractors use immigrant labor to undermine wages and working conditions. The only way to remedy that is to ensure all workers have full labor rights. We must fight to bring all currently undocumented workers who are already working in our industries and on the jobs we are trying to organize to the same level as other workers. And the only way to do that is to legalize the existing undocumented workforce. Otherwise, we continue to supply employers and contractors with a steady supply of exploitable workers.

Q: Does this Mean the AFL-CIO Supports ‘Open Borders’?

A: No. We recognize that the United States has the sovereign authority and constitutional responsibility to set and enforce limits on immigration. An “open borders” policy would play into the hands of corporations that would like nothing better than to treat workers as commodities. The U.S. government’s failure to enforce U.S. workplace standards has created a de facto open border enabling corporations to reach around the globe and encourage workers to come to this country in search of jobs. That is why protection of workers should be the cornerstone of any new immigration law.

Q: Why Should We Simply Allow People Who Came to the United States Illegally to Stay Here?

A: The United States is, and always has been, the largest immigrant-receiving nation on earth. That is the fiber of who we are. And the reason we have been able to prosper and become the most powerful nation in the world is that we have been able to value the complex contributions our citizens make. What has set us apart from the rest of the world is that we are a nation of citizens, not guests. Integrating waves of immigrants into the fiber of our nation has required struggle—often painful struggle. But to make sure all of our citizens have a voice in our society, our nation has done it. We have encouraged newcomers to invest in their communities, to establish roots, to buy homes, to send their children to college—in short, to be a part of the “American Dream.” And the union movement has been the driving force for that dream. We engaged workers in the struggle for the eight-hour workday, for the freedom to form unions and for health and safety protections on the job. When we did that, we didn’t carve any worker out because we understood that dividing workers into different “classes” only benefits employers. If we engage in policies that allow corporations to create a secondary class of citizens, with no political and civil rights, we will only be supporting the creation of a class of workers who have absolutely no incentive to engage in the long-term fight for good jobs with decent benefits, including health care and pensions.

Additionally, it is neither realistic nor responsible to assume we are going to deport all undocumented workers. At a time when public budgets already are strained because of current government policies that punish workers and give to the rich, trying to “deport” all undocumented workers is fiscally irresponsible. A report by the Center for American Progress recently concluded that mass deportations would cost the U.S. Department of Treasury at least \$206 billion over five years (\$41.2 billion annually) and could cost as much as \$230 billion or more. Spending \$41.2 billion annually would exceed the entire budget of the U.S. Department of Homeland Security for fiscal year 2006 (\$34.2 billion) and is more than double the annual cost of military operations in Afghanistan (\$16.8 billion).

Mass deportations also would have a profoundly negative effect on U.S. citizens and on our communities, given that 85 percent of immigrant families with children are “mixed status” families, which means at least one household member is a U.S. citizen or a lawful permanent resident.

Q: Does the AFL-CIO Support Any of the Current Legislative Proposals?

A: No. The U.S. House version of immigration reform (H.R. 4437) is a mean-spirited attack on workers and immigrants. It will do nothing meaningful to address the immigration crisis. That bill makes criminals of the currently undocumented population, which will only serve to drive millions of people into further desperation and poverty. The U.S. Senate version does not adequately protect workers. It creates a three-tiered, apartheid-like structure for dealing with the current undocumented population and still leaves workers in temporary status for years and years. It also creates a large, new guest worker program that will only help corporations drive down workplace standards for all workers.

Q: What Is the AFL-CIO Doing to Make Sure Immigration Laws Are Fixed in the Right Way?

A: We are working with our affiliates and our community partners, including worker centers—in communities, in the courts and on Capitol Hill—to make sure Congress understands that immigration reform must focus on the needs of workers, not corporations. The struggle for workers’ rights is a difficult one and workers must stand together to make sure corporations are not able to dilute the strength of our voice by painting us as anti-immigrant.

Q: What Is the Difference between the AFL-CIO’s Immigration Policy and Change to Win’s Immigration Policy?

A: Change to Win has not articulated an immigration policy. Two of the Change to Win unions, SEIU and UNITE HERE, support the expansion of guest worker programs that is reflected in current legislative proposals. Two other Change to Win Unions, United Food and Commercial Workers and the Teamsters, have issued statements strongly opposing guest worker programs and have been lobbying with the AFL-CIO against the expansion of those programs.

For more information, visit www.aflcio.org/issues/civilrights/immigration/ or contact Ana Avendaño at 202-637-3949 or by e-mail at aavendan@aflcio.org.