

# United States Senate

WASHINGTON, DC 20510

June 19, 2024

## VIA ELECTRONIC TRANSMISSION

Joseph R. Biden  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear President Biden:

I write today to express my deep concern regarding the constitutionality of your recently announced plan to grant legal status to hundreds of thousands of illegal immigrants. Specifically, I have seen reports that you are considering implementing a so-called “Parole in Place” policy, which would grant legal status to illegal immigrants whose spouses are United States citizens, so long as they have lived in the country for at least ten years.<sup>1</sup> Your plan would also offer work permits and deportation protections to these immigrants and—just as troubling—would provide a pathway to *permanent legal status and United States citizenship*.<sup>2</sup> In total, this disastrous proposal could apply to an estimated 550,000 illegal immigrants.

If implemented, this “Parole in Place” policy would be plainly unconstitutional. As you well know, the Constitution vests the executive with the power to *enforce* our immigration laws, not to craft them unilaterally. Specifically, the Constitution states that the President “shall take care that the laws be *faithfully executed*.”<sup>3</sup> If you move forward with implementing this disastrous proposal that alters the legal status of hundreds of thousands of migrants without congressional approval, you would be flouting congressional authority in direct contravention of the Constitution’s separation of powers.

Unfortunately, your proposed “Parole in Place” policy is not the first instance of a president abusing his executive authority to advance unpopular and unlawful open border policies. In 2012, President Obama issued the Deferred Action for Childhood Arrivals (DACA) policy—a presidential memorandum permitting certain illegal immigrants physically present in the United States for at least five years to receive deportation protections and work permits.<sup>4</sup> Rightly so, this flawed proposal was deemed unlawful by a federal district court, a ruling that is currently pending appeal before the Fifth Circuit.<sup>5</sup> I am certain that your proposed policy would suffer from the same procedural and constitutional flaws and would swiftly be enjoined by a federal court.

---

<sup>1</sup> Camilo Montoya-Galvez, *Biden Preparing to Offer Legal Status to Undocumented Immigrants Who Have Lived in the U.S. for 10 Years*, CBS NEWS (June 14, 2024, 7:21 PM) <https://www.cbsnews.com/news/biden-plan-undocumented-immigrants-legal-status-10-years-in-u-s-married/>.

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Const. art. II, § 3 (emphasis added).

<sup>4</sup> Memorandum from Janet Napolitano, Secretary, DHS to David Aguilar, Acting Comm’r, CBP, “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (June 15, 2012).

<sup>5</sup> *Texas v. United States*, No. 1:18-CV-00068, 2023 LEXIS 162598, (S.D. Tex. Sept. 13, 2023).

Of course, your “Parole in Place” proposal is also not the first time that your administration has attempted to flout the Constitution’s separation of powers. Your disastrous student loan policy similarly circumvented Congress and ignored judicial decisions from our nation’s highest Court.<sup>6</sup> Indeed, you went so far as to publicly boast about ignoring the Supreme Court’s decision striking down your student loan scam as unconstitutional.<sup>7</sup> Put simply, your administration has demonstrated a troubling pattern of unconstitutional action that disregards our principles of separation of powers, and your “Parole in Place” proposal appears to be no different.

In addition to its constitutional flaws, your proposed executive action would entirely fail to address our country’s immigration crisis. Over ten million illegal immigrants have entered our country since you took office, including 362 individuals on the terrorist watchlist; 1.8 million immigrants—so-called known “gotaways”—have evaded border patrol’s detection; and 1.3 million migrants have been encountered at our southern border in this fiscal year alone. But this national security and humanitarian crisis is of your own making. Congress has given you the tools and the resources you need to secure our southern border, and yet you persist in refusing to do so. Instead, you have consistently proposed policies that would exacerbate the immigration crisis that you have created. Your proposed “Parole in Place” policy is only the latest example.

Instead of ignoring our Constitution to achieve your open border policy goals, I urge you to change course and use the tools Congress has given you to secure our southern border, deport those who do not belong in the United States, and address the humanitarian and national security crisis that your reckless immigration policies have created.

Thank you for your attention to this urgent matter.

Sincerely,

---

<sup>6</sup> *President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration*, White House Statements and Releases, <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/08/president-joe-biden-outlines-new-plans-to-deliver-student-debt-relief-to-over-30-million-americans-under-the-biden-harris-administration/>.

<sup>7</sup> Wall Street Journal Editorial Board, *Biden’s Student Loan Boast: The Supreme Court ‘Didn’t Stop Me,’* Wall St. J. (Feb. 23, 2024), <https://www.wsj.com/articles/joe-biden-student-debt-forgiveness-supreme-court-0c5204fe>.