

# EXCLUSIONS IMPACTING ECONOMIC SECURITY OF PEOPLE WHO ARE UNDOCUMENTED

Alongside longstanding cultural attitudes, volatile economic conditions, and major demographic shifts, racist and xenophobic federal and state policies have played a key role in creating and perpetuating exclusions to economic security for low-income people of color, immigrants, and particularly people who are undocumented.

For a brief overview of some of those policies, please refer to [Appendix A](#). Today, people who are undocumented in California are at the nexus of three major inequitable systems that impact their economic security. It is important to understand how each of these systems function and intersect in order to identify holistic strategies for change.



## EXCLUSIONS BASED ON EMPLOYMENT STATUS

The Immigration Reform and Control Act (IRCA) of 1986 established civil and criminal penalties against any employer who knowingly hired undocumented immigrants and greatly expanded border enforcement.<sup>33</sup> Employers now use what is known as the I-9 process to verify the authorization to work of all new hires.<sup>34</sup> The employer sanctions represented a fundamental shift in policy and significantly impacted undocumented individuals' ability to work, relegating them to precarious work arrangements that lack the robust worker protections and benefits associated with traditional employment.

People who are undocumented lack the documents to satisfy the I-9 employment verification requirements that were created as a result of IRCA, otherwise known as lacking work authorization. Therefore, they are unable to legally work as traditional employees, but are able to work as independent contractors, freelancers, or entrepreneurs. Unfortunately, independent contractors are categorically excluded from the majority of worker protections and benefits, including unemployment benefits, minimum wage and overtime laws, leave benefits, and the ability to unionize (see Table 2).<sup>35</sup> Meanwhile, employers sometimes exploit the law by misclassifying undocumented workers as independent contractors, even while treating them as employees in every other way, such as by exerting control over the work that they do.<sup>36</sup>

Table 2. Summary of Worker Protections and Benefits for Independent Contractors vs. Employees<sup>37</sup>  
Adapted from NELP's [Independent Contractor vs. Employee: Why Misclassification Matters and What We Can Do to Stop It](#)

<b>EMPLOYEE PROTECTIONS AND BENEFITS</b>	<b>INDEPENDENT CONTRACTOR ELIGIBILITY</b>
Minimum wage and overtime	None
Workers' Compensation	None, or worker pays
Paid Family Leave or Disability	Only if worker pays
Unemployment Insurance	None
Right to form a union and collectively bargain	None
Anti-harassment and discrimination protections	None
Taxes shared with employer	Worker pays the entire 15.3% self-employment rate and usually responsible for quarterly tax filings.

Another option for people who are undocumented is to work in the “cash economy”, as day laborers, in domestic work, in restaurant work, or other low-wage jobs. **Undocumented workers are estimated to be more than twice as likely to work in low-wage jobs compared to US citizen workers,<sup>38</sup> and twice as many noncitizen workers (38%) work in jobs earning below a living wage than citizen workers (18%).<sup>39</sup>** People who are undocumented are also much more susceptible to wage theft, which occurs when employers violate minimum wage or overtime laws. **In a 2009 survey, 37.1% of undocumented immigrant workers had been victims of minimum wage violations in the week prior to their being surveyed—compared with 21.3% for authorized immigrants and 15.6% for U.S.-born citizens.<sup>40</sup>** The enormous prevalence of wage theft costs California workers \$2 billion annually.<sup>41</sup> Additionally, workers can face significant retaliation when trying to speak up for their rights, with employers threatening to fire workers, withhold wages, hold on to important documents, or report workers to immigration authorities.<sup>42</sup> Certain jobs, such as domestic work, are also categorically excluded from state health and safety protections.<sup>43</sup> Low-wage jobs do not offer opportunities through the employer to build assets such as retirement accounts, which have implications not only for the undocumented individual but also for intergenerational transfers to future generations.

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## EXCLUSIONS BASED ON IMMIGRATION STATUS

People who are undocumented are largely barred from public benefits, which means that those earning poverty-level wages, who lose their job, or experience other hardships, do not have access to the same levels of support for food, health, cash, or other assistance as other Californians (see Table 3).<sup>44</sup>

Table 3. Eligibility for public support programs for people who are undocumented.<sup>45</sup> Adapted from [NILC's Overview of Immigrant Eligibility for Federal Programs](#).

<b>PROGRAM TYPE</b>	<b>FEDERAL ELIGIBILITY FOR PEOPLE WHO ARE UNDOCUMENTED</b>	<b>WHAT CALIFORNIA HAS DONE</b>	<b>WHAT GAPS REMAIN</b>
Food Assistance	<p>Generally not eligible for food assistance through the Supplemental Nutrition Assistance Program (SNAP), with extremely limited exceptions.</p> <p>Generally eligible for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). All children, regardless of immigration status, are able to access school breakfast and lunch programs.</p>	<p>California created the California Food Assistance Program (CFAP) for some lawfully permanent residents who are not eligible for SNAP (called CalFresh in California). This year, California approved funding to expand CFAP eligibility for Californians ages 55+, regardless of immigration status, which includes people who are undocumented. However, the date for when this expansion will be implemented is still being determined.</p>	<p>Californians who are undocumented and under the age of 55 are still excluded from food assistance through CFAP.</p>
Healthcare Assistance	<p>Eligible for emergency treatment under emergency Medicaid. Not eligible for Full Scope Medicaid, the Children's Health Insurance Program (CHIP), or for purchasing coverage through the Affordable Care Act (ACA) health exchange.</p>	<p>Currently eligible for Full Scope Medi-Cal (California's Medicaid program) if under age 26 or 50+. This year, California approved state funding to provide full scope Medi-Cal for all ages, regardless of immigration status, beginning in 2024.</p>	<p>Undocumented Californians still do not have the ability to purchase coverage through Covered California, the state's health insurance marketplace.</p>
Cash Assistance	<p>Generally not eligible for Temporary Assistance for Needy Families (TANF), with very limited exceptions.</p>		
Assistance for Seniors and People with Low-Income and Disabilities	<p>Not eligible for the Supplemental Security Income (SSI) program.</p>	<p>California created the Cash Assistance Program for Immigrants (CAPI) for some immigrants who are either 65 or older, blind, or disabled, and who do not qualify for SSI because of their immigration status.</p>	<p>Undocumented individuals are still ineligible for CAPI.</p>

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Low-Income Tax Credits	<p>People who are undocumented are not eligible to receive the federal Earned Income Tax Credit (EITC). Those who file with an individual taxpayer identification number (ITIN) and who have a child who has a Social Security Number (SSN) could claim the expanded Child Tax Credit for their child, provided they meet all other eligibility requirements.</p>	<p>California created a state earned income tax credit, the CalEITC, as well as a Young Child Tax Credit (YCTC) for people with children under the age of 6. People who are undocumented and file their taxes with an ITIN, and who meet all other eligibility requirements, can receive the CalEITC and YCTC.</p>	<p>There are several structural barriers to applying for, receiving, and renewing an ITIN, including fees, language barriers, and burdensome documentation requirements.</p>
Covid-19 Stimulus Payments	<p>Not eligible.</p>	<p>California created the Disaster Relief Assistance for Immigrants Program (DRAI) to provide one-time cash relief to people who were undocumented and therefore ineligible for federal relief.</p> <p>California's Golden State Stimulus Program (GSS) was also available to people who were undocumented, provided they filed their taxes with an ITIN and met all other eligibility requirements. ITIN filers were able to receive a slightly higher payment through GSS, given their exclusion from federal relief.</p>	<p>Undocumented Californians who do not have an ITIN were not eligible for GSS.</p>
Unemployment Benefits	<p>Not eligible.</p>		
Housing Assistance	<p>Not eligible for public housing and Section 8 housing programs. If at least one member of the household is eligible based on immigration status, the family may reside in the housing, but the subsidy will be prorated.</p>		

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Workforce Development Services	Generally, not eligible for federally funded workforce development services, including job placement and apprenticeships, that are tied to employment. People who are undocumented are eligible for other services within the public workforce development system, such as Adult Education, workforce preparation and job training.	Many state funded workforce development programs are available to anyone, regardless of status.	Programs that are directly tied to employment, such as apprenticeships, are still unavailable to people who are undocumented.
Business and Professional Licenses	<a href="#">Not eligible for professional licenses.</a>	California has passed legislation to allow undocumented Californians to obtain business and professional licenses, provided they meet all other requirements.	Despite eligibility, barriers include field work and internship requirements, language access, and prohibitive fees.
Banking and Financial Services	There are no federal laws that prohibit banks from lending or providing services to ITIN holders. However, they are not required to do so.		While banks can allow an ITIN or other forms of identification to be used for services, many of them do not. This creates a barrier for some undocumented individuals to open bank accounts with mainstream financial institutions, leaving them open to predatory financial products and providers.

Even when people who are undocumented are included in public support programs, they still face significant barriers to accessing them, including barriers related to language, bureaucracy, and trust, given the fear that many immigrant communities have of interacting with the government.<sup>46</sup>

Many of these challenges could be addressed with a greater infrastructure of immigrant serving organizations who are able to address barriers while helping communities navigate complex systems. However, this infrastructure is not funded equitably or adequately across organizations or geographies. For example, a recent survey of immigrant legal service organizations in California found that only 8% of organizations serving the Central Valley and 11% of organizations serving the Central Coast are located in the region, compared with 76% in the Bay Area and 44% in Los Angeles.<sup>47</sup> This discrepancy is especially challenging as immigrant populations continue to grow in more rural and suburban areas.

## **EXCLUSIONS ON THE BASIS OF RACE, ETHNICITY, CLASS, AND GENDER**

In California, the vast majority of people who are undocumented (97%) identify as people of color, and discrimination based on race and ethnicity significantly impacts and harms people's chances of economic security, particularly women. For example, significant research shows how Black and Latinx sounding names on job applications are less likely to get a call back for an interview<sup>48</sup>, and applications for housing are more likely to get denied.<sup>49</sup>

Even if one is able to get a job, occupational segregation – which occurs when one demographic group is over or underrepresented in a certain job – has meant that jobs that pay higher wages disproportionately employ White men, while lower paid jobs disproportionately employ women, and particularly women of color.<sup>50</sup> Jobs traditionally thought to be held by women of color pay less at the outset, and tend to be thought of as “low-skilled” or “unskilled”, even though they often require a high level of skills and experience.<sup>51</sup>

California's punitive carceral system also disproportionately harms communities of color, with severe immigration and economic implications.<sup>52</sup> Those who interact with the criminal justice system face significant burdens in finding a job and supporting themselves upon returning home. However, immigrants who interact with the criminal justice system face additional consequences due to California's jails and prisons voluntarily transferring immigrant community members to Immigration and Customs Enforcement (ICE) for detention and potential deportation.<sup>53</sup> Individuals lose their loved ones, their homes, and their livelihoods, at a deep personal and financial cost to families and communities.<sup>54</sup>



# BUILDING THE FUTURE WE WANT: WHEN UNDOCUMENTED IMMIGRANT COMMUNITIES DO BETTER, WE ALL DO BETTER

**ECONOMIC SECURITY  
FOR PEOPLE WHO ARE  
UNDOCUMENTED WILL MAKE  
OUR STATE MORE RESILIENT  
AND BETTER ABLE TO  
WITHSTAND FUTURE SHOCKS  
– BE IT A PANDEMIC, CLIMATE  
DISASTER, OR FUNDAMENTAL  
SHIFTS IN OUR  
ECONOMY.**

The COVID-19 pandemic showed us how we are deeply interconnected and reliant on our collective health and well-being. While the pandemic revealed and aggravated deep, structural inequities in our society, it has also served as a rallying cry to create the future we want, where we are all able to live financially secure lives where we are cared for, protected, have a sense of belonging and can thrive.

**When we focus on removing exclusions and targeting investments to those who are most disenfranchised, we all benefit.**<sup>55</sup> For example, if our state eliminated racial gaps in income, the California GDP would have been about \$1.1 trillion larger.<sup>56</sup> When California removed the exclusion of undocumented immigrant tax filers from our state's Earning Income Tax Credit (CalEITC), it put over \$100 million back in the pockets of low-income Californians.<sup>57</sup> That money went back into helping boost local economies, as that money could be used for housing, food, medical, and education costs.<sup>58</sup> And, when California expanded Medi-Cal eligibility to undocumented residents under 26 years of age, the state was able to close its overall uninsured gap from 14.5% to 6%.<sup>59</sup>

Since people who are undocumented tend to live in mixed-status households and are deeply integrated in their communities, their economic security extends to their family and community members. Studies of the long term effects of economic security programs for children have been linked to lower rates of health issues, improved education outcomes, and greater economic mobility in adulthood.<sup>60</sup> In other words, **economic security for people who are undocumented will lead to reduced instability, trauma and other hardships for the people who depend on and love them, and create greater economic opportunity for the generations to follow them.**

While people who are undocumented are disproportionately represented in low-paying jobs, exploitation in the workplace is not unique to undocumented workers. Rather, it is a disease that plagues our entire economy, across communities, industries, and sectors. Thus, improving economic security for people who are undocumented will likely result in improving low-wage worker industries overall.

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Finally, if the pandemic revealed to us our interdependence, our economic and climate future will put it to the test. **Economic security for people who are undocumented will make our state more resilient and better able to withstand future shocks – be it a pandemic, climate disaster, or fundamental shifts in our economy.** The Great Recession of 2008 and the COVID-19 pandemic exacerbated inequality because individuals were left to pull themselves out of crises on their own.<sup>61</sup> This does not need to be our reality. We can invest in the economic security of people who are undocumented to create a more equitable and inclusive California for all now, so that governments, funders, and communities are better prepared for future crisis when they inevitably occur. **Ensuring that people who are undocumented have what's needed to thrive will help ensure that everyone can thrive.**