



## COALITION ON HUMAN NEEDS

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*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Ms. Samantha Deshommes, Chief  
Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Ave. NW  
Washington, DC 20529

**Re: U.S. Citizenship and Immigration Services Fee Schedule, DHS Docket No. USCIS-2019-0010; RIN 1615-AC18**

Dear Chief Deshommes:

Thank you for the opportunity to submit this comment on the proposed U.S. Citizenship and Immigration Services (USCIS) Fee Schedule, published on November 14, 2019, which I am doing on behalf of the Coalition on Human Needs (CHN). We believe that the fee and policy proposals in the proposed fee schedule are contrary to Congressional intent and statute as well as contrary to the national interest of allowing immigrants who are eligible for naturalization not to be denied this opportunity based on inability to pay and allowing others, such as those in with DACA status, asylum seekers, or unaccompanied immigrant children, to comply with immigration requirements that are accessible even for those with few funds. We strongly urge that USCIS withdraw all provisions that make immigration benefits less accessible to low-income and other vulnerable immigrants.

The Coalition on Human Needs is an alliance of more than 100 national organizations who represent human service providers, faith organizations, policy experts, labor, civil rights and other advocacy organizations concerned with protecting and improving federal programs and policies aimed at lifting low-income and vulnerable people out of distress and poverty. CHN has taken a special interest in immigrant issues because federal policy choices can make the difference between people who remain in poverty or who can move up in education and income, or between children and adults who have fled violence and direct threats in their homeland finding protection or rejection. We believe the proposed fee increases and elimination of fee waivers will consign more immigrants to poverty and/or denial of the opportunity to remain in this country lawfully. Further, the specific fees related to those seeking asylum are contrary to U.S. law, international agreements, and moral imperatives. Finally, the plan to use funds generated by these fee increases to ICE for anti-immigrant enforcement is contrary to law. For all these reasons, the proposed fee schedule and related policies should be withdrawn.

The proposed USCIS fee schedule disproportionately increases fees and eliminates fee waivers for the benefit categories most commonly used by low-income immigrants, leaving essential immigration benefits accessible primarily to the affluent. This country has been built by immigrants who come poor but whose successive generations prosper. Achieving legal status culminating in naturalization is an important part of this progression. The large fee increases will make it far more difficult for immigrants to achieve or sustain legal status. This will be true of many different categories of immigrants. A few examples are listed below for illustrative purposes; our concerns extend to all immigrants who would be harmed by the proposed fee increases and other policy changes:

**DACA:** Young people here under Deferred Action on Childhood Arrival (DACA) status will find their fees rising from the current total fee of \$495 to a new total cost for DACA renewal of \$765. This unjustified 55 percent increase would create a significant barrier to continued legal status and work authorization for young immigrants.

Most DACA requesters are, by definition, young people who often struggle to afford the existing DACA request fee. Of the approximately 660,880 total active DACA recipients reported on June 30, 2019, approximately 544,180 are age 30 or below, and 112,160 of that number are fifteen to twenty years old. In a 2015 survey of DACA recipients, nearly 70 percent of respondents indicated that they struggled to pay their monthly bills and expenses with their current incomes. However, 80.6 percent of respondents indicated that they were employed, and 80.1 percent believed that DACA would help them achieve their professional goals.

Maintaining current fee levels for the I-821D form allows these young people to continue on their educational paths and to participate in the American economy. Increasing the fee for DACA renewal requests not only hinders current DACA recipients' abilities to earn a living for themselves and their families, but it also harms the U.S. economy by increasing the financial burden on its participants.

**ASYLUM SEEKERS:** The U.S. has a moral imperative to accept asylum seekers as well as obligations under domestic and international laws. As a signatory to the 1967 Protocol of the 1951 Convention Relating to the Status of Refugees, the U.S. has an obligation to accept asylum seekers who seek protection. The \$50 fee for those filing for affirmative asylum that would be imposed by the proposed fee schedule is contrary to the intent of the 1980 Refugee Act and would be contrary to the practice of the vast majority of countries who have signed the 1951 Convention or 1967 Protocol (only three other countries are known to charge a fee for asylum-seekers). The proposal would not allow this fee to be waived, assuming that large numbers of asylees would seek the waiver. Such an assumption acknowledges that many will find the fee unaffordable. Because it imposes a financial condition on the right to apply for asylum, it is in violation of 8 U.S.C. § 1158(a)(1). In addition to decades of law contrary to imposing fees for asylees, Congress has more recently urged USCIS to refrain from charging a fee for humanitarian applications, including asylum, and to brief Congress on the possible impact if it were to impose a fee.

In addition to the \$50 fee, the proposed schedule would eliminate the waiver of the fee for the I-765, Application for Employment Authorization, requiring asylum-seekers, even unaccompanied children, to pay \$490 in order to receive work authorization while their applications are pending. This will make it particularly difficult for asylum seekers, who must wait six months after filing their application before becoming eligible for an EAD, to find the funds to pay this fee.

**UNACCOMPANIED CHILDREN:** While unaccompanied children are not subject to the \$50 asylum fee, by requiring them to pay the fee for work authorization with no waiver possible will make it far more difficult for them to obtain fair treatment. We note the comments submitted by the organization KIND (Kids in Need of Defense), which provides social services and legal assistance to unaccompanied children. They have seen that older children with access to work authorization are far more likely to engage in safe work activities, sometimes with employer-provided health insurance. In addition, while attorneys provide their services pro bono, they are not likely to be able to pay the fees that would be newly imposed, and so would not take cases that could not succeed if such payment were not possible. If KIND or other service providers must find ways to subsidize unreasonable fees, they will likely have to reduce the number of children they serve.

**GREEN CARD APPLICANTS:** These immigrants would pay much higher fees, since work and travel permits would now require separate fees. For a spouse seeking a marriage-based green card, the total expenses for the process would [increase by nearly a thousand dollars](#). Recently married couples would have an extra fee increase of \$165 to obtain permanent green cards. USCIS proposes separate fees for concurrently filed Forms I-485, I-765, and I-131. Most applicants for adjustment of status who will file Form I-485 will also request employment authorization and advance parole travel authorization. Due to immigrant visa backlogs, applicants for adjustment often face long waits before their permanent residency is granted. They rely on employment authorization so that they can continue to live and work in the United States while their application is pending. These applicants will see a 79 percent increase in the total cost of filing Forms I-485, I-765, and I-131. The steep increase, from \$1,225 to \$2,195, and the elimination of fee waivers will make adjustment of status unattainable for many low-income and working class people who are immigrating through a U.S. citizen or lawful permanent resident relative.

**THOSE SUBJECT TO THE AFFIDAVIT OF SUPPORT:** USCIS proposes making fee waivers unavailable to applicants who are subject to the public charge ground of inadmissibility; those who are subject to an affidavit of support; and those who are already sponsored immigrants. The USCIS Director would also be barred from granting a discretionary fee waiver to anyone in the former categories. This proposal would disproportionately harm low- and moderate-income families.

Most family sponsored immigrants are subject to the public charge ground of inadmissibility and are required to have an affidavit of support regardless of income. Moreover, the affidavit of support contract terminates only after specific criteria are met. The end result is that an immigrant would likely be barred from fee waiver eligibility for years, without regard to their actual need. This would create an additional barrier for low income immigrants who seek immigration benefits that they would otherwise be eligible for, including naturalization.

**THOSE ELIGIBLE FOR NATURALIZATION:** The proposed fee schedule would increase the filing fee for Naturalization from \$640 to \$1,170, an 83 percent increase. This substantial increase, with fee waivers no longer possible, would make naturalization far less accessible for low-income people. There are about 9 million Lawful Permanent Residents who are eligible to naturalize but who have not yet filed. It is in the national interest that these individuals attain citizenship. It is certainly the intent of Congress to keep access to naturalization affordable (see H. Rep. No. 115-948 accompanying H.R. 6776, the Department of Homeland Security Appropriations Act (2019)).

**The proposal will stand in the way of economic gains benefiting us all.** The evidence is clear that immigrants with legal status do better economically and that their children attain even greater prosperity. In a 2015 publication, [The Integration of Immigrants into American Society](#) by The National

Academies Press, the children of immigrants had higher educational attainment and earnings than their immigrant parents achieved. Looking specifically at families of immigrants from Mexico and Central America, where the first generation of immigrants tend to be low-income, only 11.5 percent of Mexican immigrants worked in professional or managerial positions; by the next generation, those in such positions rose to 21.9 percent. Among first generation immigrants from Central America, the proportion in professional or managerial jobs was 9.3 percent; in the second generation, 31.2 percent were in such positions. (See <https://www.nap.edu/read/21746/chapter/8>)

In a 2019 study in *Boston Indicators*, “Second generation immigrants in Massachusetts have among the highest incomes in the country” ([https://www.bostonindicators.org/article-pages/2019/october/immigrant\\_generational\\_differences](https://www.bostonindicators.org/article-pages/2019/october/immigrant_generational_differences)), the findings showed earnings gains in the second generation in eight of ten states with high immigrant populations. Massachusetts showed the highest gains, which the report attributed to higher education levels in Massachusetts.

As noted above, DACA beneficiaries are working and many are furthering their education. That will enable them to earn more and make it more likely that their children will do even better. If those with DACA status are less able to continue their education because the cost of fees makes it harder to afford school, the contributions they make to our economy will be stunted. This will also be true of others eligible for naturalization.

**There is no lawful justification provided for the steep fee increases.** Since 2010, USCIS has increased filing fees by weighted averages of 10 percent and subsequently another 21 percent but has not achieved any associated improvement in processing times, backlogs, or customer service. During that same period, USCIS’ backlog has increased by more than 6,000 percent, and the overall average case processing time increased 91 percent between 2014 and 2018.

Despite the large additional increase proposed in the new fee schedule, USCIS does not project any near-term improvement in service. It states: *“USCIS does not believe the level of effort for future adjudications will decrease ... USCIS estimates that it will take several years before USCIS backlogs decrease measurably.”*

The proposal does specify that \$112 million dollars—10% of new revenue— would be used for a direct transfer to Immigration and Customs Enforcement (ICE), the agency which detains and removes unauthorized migrants. Another 57 percent of the fee increases are described as going to “unspecified” purposes. (See <https://www.boundless.com/research/uscis-fee-hike-immigrants-affected/>.) USCIS fees are intended to serve those seeking to obtain, renew, or adjust their immigrant status. It is contrary to law to divert funds to anti-immigrant enforcement. Congress codified in the Immigration and Nationality Act, or INA, that applicant-provided fees are USCIS’s “primary funding source” used “to fund the cost of processing immigration benefit applications and petitions”—that is, “to adjudicate applications and petitions for benefits under the Immigration and Nationality Act and to provide necessary support to adjudications and naturalization programs.” Despite this clear statutory instruction, however, USCIS seeks to transfer those funds to serve another purpose. By unnecessarily and wrongfully transferring funds to ICE, USCIS is betraying not only its own mission but also Congress’s clear statutory intent.

**The proposed fee schedule is intent on keeping low-income immigrants out, not on funding adequate services.** Both the steep increases and the transfer of funds away from USCIS’ statutory purpose and to

anti-immigrant enforcement show clearly that the intent of this proposed rule is to discourage low-income immigrants, even refugees and unaccompanied children, from attaining legal status, and to increase enforcement to speed deportations of those who are unable to pay the fees. The changes in policy sought here are contrary to law and international agreement. They are also contrary to the great success of this nation: the prosperity that has come from welcoming poor immigrants and giving them the opportunity to better themselves and their children. We respectfully urge you to withdraw this proposed fee schedule and abandon efforts to victimize already vulnerable people with legitimate claims on legal status in the U.S.

We appreciate the opportunity to submit comments on the proposed fee schedule. Please do not hesitate to contact me at [dweinstein@chn.org](mailto:dweinstein@chn.org) if we can assist with further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Weinstein", with a long horizontal flourish extending to the right.

Deborah Weinstein  
Executive Director,  
Coalition on Human Needs