

December 18, 2019

Submitted via www.regulations.gov

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

RE: U.S. CITIZENSHIP AND IMMIGRATION SERVICES FEE SCHEDULE, DHS DOCKET NO. USCIS-2019-0010; RIN 1615-AC18

Dear Chief Deshombres:

I write on behalf of Eastern Michigan University to comment in response to U.S. Citizenship and Immigration Services' (USCIS) proposed rule, *Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, published on November 14, 2019. We are very concerned about a number of the fee and policy proposals in the proposed fee schedule, and we request that USCIS withdraw all provisions that make immigration benefits less accessible to low-income and vulnerable immigrants, especially current and prospective students and their families.

Eastern Michigan University, located in Ypsilanti, Michigan, is home to 21,105 students from 46 states and 40 countries. Nearly 1,000 international students from more than 80 nations are currently part of our community. We employ nearly 2,000 faculty and staff. Time and time again, as I meet with international students, they share their views about the strong support they receive from the University and our faculty. They also reiterate the positive environment and the University's proximity to Detroit Metropolitan Airport, a major international airport. The ease of travel and the welcoming campus make us ideally suited to attract even more international students and scholars in the years ahead.

The proposed USCIS fee schedule could significantly harm our efforts in this regard. The schedule disproportionately increases fees and eliminates fee waivers for benefit categories most commonly used by low-income and vulnerable immigrants, especially students and their families, leaving essential immigration benefits accessible primarily to the affluent. These unwarranted changes would result in financial hardship for immigrant and mixed-status families, immigrants delaying or losing immigration status due to financial considerations, and increased dependence on debt to finance applications.

Such changes would also decrease involvement of qualified legal assistance, as immigrants would have to choose to spend their limited funds on filing fees instead of representation, resulting in difficult and inefficient USCIS processing and adjudication, among other problems. These increases do not reflect the costs that applicants must endure when securing and compensating legal counsel to assist in preparing time consuming and complicated immigration petitions. Immigration fees can range from \$250 to more than \$10,000, with many

petitions hovering around \$1,000.¹ Thus, the proposed increases exacerbate the already high cost of applying for an immigration benefit, from beginning to end.

Moreover, since 2010, USCIS increased filing fees by weighted averages of 10 percent and then another 21 percent but did not achieve any associated improvement in processing times, backlogs, or customer service. During that same period, USCIS' backlog increased by more than 6,000 percent;² and the overall average case processing time increased 91 percent between 2014 and 2018.³ As higher education institutions working to support our students, staff, faculty and families, we were also dismayed to see that USCIS struck language from its resources regarding its commitment to customer service.⁴ USCIS has not used other filing fees to improve USCIS' efficacy and immigrants should not be expected to bear a significant increase in fees without corresponding improvement in USCIS' customer service.

Our institution strongly opposes USCIS' proposal to increase the total fees for Deferred Action for Childhood Arrivals (DACA) to \$765 (up from \$495), a total increase of 55 percent. USCIS proposes increasing the fee to file Form I-765 to \$490 from \$410; and Form I-821D from \$0 to \$250. (USCIS will maintain the current \$85 biometrics fee.) We urge USCIS to maintain the current total cost of \$495. The proposed increase represents a significant barrier that will reduce the number of DACA recipients who can successfully obtain DACA renewal and complete their higher education.

We describe below how some of these changes will impact our institution, students, and those we serve. At a time when immigrants and children of immigrants are projected to be a primary source of future U.S. labor force growth and our nation faces growing skills shortages, the proposed fee increases would impede immigrant students' success and consequently degrade our national economic prosperity.

1. Proposed Increase in Naturalization Fees and Elimination of Fee Waiver Will Deter Eligible Applicants from Applying

First, the Proposed Fee Schedule will deter low-income immigrant students and family members from applying for naturalization. This will result in reduced social and economic mobility for students and reduced long-term contributions to our communities and economy. Eastern Michigan University opposes USCIS' attempt to significantly increase naturalization fees on low-income immigrant students and families. As educators working with low-income immigrant students, we see first-hand the benefits of social and economic mobility for our students, alumni, and their families. Encouraging and lowering the barriers to those eligible for permanent residency and citizenship is an important element of this integration, which strongly benefits our campuses, communities, and economy in the long-term. Naturalization is a key driver in allowing immigrants to fully integrate into our society and economically contribute to our country. For example, naturalization boosts individual earnings by upwards of 11 percent, leading to upwards of \$45 billion in increased cumulative earnings over a decade.⁵

¹ Liz Daneau, *Is An Immigration Lawyer Worth The Cost?*, Feb. 2, 2016, available at, <https://www.alllaw.com/articles/nolo/us-immigration/lawyer-worth-cost.html>.

² See *Policy Changes and Processing Delays at U.S. Citizenship and Immigration Services: Hearing before the House Subcomm. on Immigration of the H. Comm. On the Judiciary*, 116th Cong. (2019) (joint written testimony of Don Neufeld, Associate Director, Service Center Operations Directorate, USCIS, and Michael Valverde, Deputy Associate Director, Field Operations Directorate, USCIS).

³ *AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels under the Trump Administration*, Am. Immigr. Law. Assoc., (2019), <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>.

⁴ See Max Greenwood, *Immigration Agency Removing 'Nation of Immigrants' from Mission Statement*, THE HILL, Feb. 22, 2018, <https://thehill.com/homenews/administration/375112-us-immigration-agency-to-remove-reference-to-us-as-nation-of>; see also Policy Alert: USCIS Public Services No. PA-2019-03 (May 10, 2019).

⁵ Manuel Pastor and Justin Scoggins, *Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy*, Center for the Study of Immigrant Integration, University of Southern California, Dec. 2012, <https://dornsife.usc.edu/csii/citizen-gain/>.

The fee schedule proposes to eliminate filing fee waivers for all categories except those that are statutorily required. We oppose this proposed change. The fee schedule would make essential benefits such as citizenship, obtaining a green card, and employment authorization inaccessible for low-income immigrants, especially students. Fee waivers help families to improve their stability, financially support themselves, and fully integrate into their communities while allowing them to allocate funds for their higher education. Because of the benefits of naturalization—one of the form types most frequently associated with fee waiver requests,⁶ Congress called on USCIS to keep the pathway to citizenship affordable and accessible.⁷

For example, CUNY Citizenship Now!, which runs one of the most prominent citizenship and naturalization clinics in New York reports that 54.8 percent of naturalization applicants they assist qualify for fee waivers.⁸ That number rises to 75.6 percent for N-600s (e.g. applications for certificates of citizenship for children of U.S. citizens who derive citizenship from their parents).⁹ Finally, for I-90s (replacement or renewal permanent resident card) the number is 65.8 percent. We request that DHS conduct a thorough cost-benefit analysis, including the economic costs of raising the barriers to naturalization through long-term reduced economic and social mobility of these immigrant populations.

2. Proposed Increase for DACA Fees Represents Significant Financial Burden for Renewal Requestors

USCIS' proposed increase for DACA renewals represents a significant financial barrier that will dramatically lessen DACA renewal applications. The Migration Policy Institute (MPI) concluded that even the current renewal fee “remains a barrier to DACA renewal.”¹⁰ Importantly, nearly half of DACA holders received financial assistance from family or others to pay DACA fees.¹¹ DACA holders have consistently shared that the recurring renewal fee is a “large financial burden,” with over a third of applicants delaying applying for DACA for an average of three months while they saved additional funds.¹² A majority (51 percent) of DACA holders stated that even the previous \$465 filing fee was “a financial hardship on themselves or their families.”¹³ Approximately 35 percent of DACA eligible individuals live in families with incomes less than 100 percent of the federal poverty level; and two-thirds live in households with incomes less than 200 percent of the federal poverty level.¹⁴ Moreover, over two-thirds of DACA holders support their families financially, further depleting available funds for renewal of DACA.¹⁵ The above economic and fiscal data demonstrate that the fee increase will depress and discourage renewal application numbers.

⁶ USCIS Fee Waiver Policies and Data, Fiscal Year 2017 Report to Congress, USCIS (Sept. 17, 2017), www.dhs.gov/sites/default/files/publications/USCIS%20-%20Fee%20Waiver%20Policies%20and%20Data.pdf.

⁷ H. Rep. No. 115-948 accompanying H.R. 6776, the Department of Homeland Security Appropriations Act (2019).

⁸ Email Interview with Allan Wernick, Director, CUNY Citizenship Now! (Nov. 19, 2019) (on file with author).

⁹ *Id.*

¹⁰ Angelo Mathay and Margie McHugh, *DACA at the Three-Year Mark: High Pace of Renewals, But Processing Difficulties Evident*, Migration Policy Institute 8, Aug. 2015, available at <https://www.migrationpolicy.org/research/daca-three-year-mark-high-pace-renewals-processing-difficulties-evident>.

¹¹ *Id.* (“Paying for DACA is a family and community expense with just over half (51%) of respondents reporting that they paid for their fees on their own.”).

¹² *Id.*

¹³ *Id.*

¹⁴ Jeanne Batalova, Sarah Hooker, and Randy Capps, *Deferred Action for Childhood Arrivals at the One-Year Mark: A Profile of Currently Eligible Youth and Applicants*, Migration Policy Institute 8, Aug. 2013, available at <https://www.migrationpolicy.org/research/deferred-action-childhood-arrivals-one-year-mark-profile-currently-eligible-youth-and?>

¹⁵ Zenen Jaimes Perez, *A Portrait of Deferred Action for Childhood Arrivals (DACA) Recipients*, United We Dream, Oct. 1, 2015, available at <https://unitedwedream.org/2015/10/united-we-dream-releases-major-survey-of-immigrant-youth-with-daca/>.

3. Proposed Increase for DACA Fees Will Undermine Access to Higher Education and Reduce Career Mobility

The continued financial accessibility of DACA is essential for students to continue and complete their education and establish new careers. Thirty-three percent of DACA recipients indicated they were currently “in school” and pursuing a bachelor’s or higher degree.¹⁶ Of the DACA recipients who indicated they were enrolled in school, 93 percent indicated that because of DACA they pursued educational opportunities that they previously could not.¹⁷ DACA opened up opportunities across various educational settings by facilitating recipients’ completion of certificate and vocational programs, associate’s degrees, bachelor’s degrees, and graduate and professional degrees from master’s programs to law and medical school. DACA recipients “leveraged short-term training opportunities to find entry into new professions. They found paths back to postsecondary education that allowed them to pursue graduate programs and to be competitive in the labor market. Moreover, DACA recipients utilized DACA to move up the mobility ladder, according to findings from the National UnDACAmented Research Project.¹⁸

In addition to depressing the number of DACA renewals and approvals, the proposed fee increases will reduce the number of DACA recipients who can enter, continue, and complete their higher education. Aside from states where DACA is a prerequisite for in-state or discounted tuition, DACA’s accompanying employment authorization is an invaluable tool for students to generate income to pay for tuition, school expenses, nutrition, and ancillary costs associated with higher education. For example, *TheDream.US* reports that almost half (43 percent) of their mostly DACA scholars reported food insecurity in the previous year, with 58 percent reporting they would experience food insecurity if they lost DACA.¹⁹ Put simply, immigrant students that are hungry cannot excel in their studies or learn; students that cannot pay for housing, books, or tuition will not succeed in their pursuit of higher education.

4. Proposed Fee Increases Would Severely Impact Low-Income Immigrant Community College Students

Eastern Michigan University draws heavily from community colleges in the surrounding area. In fact, at any given time, more than 50% of our students have community college credits, and approximately 60% of Eastern’s graduates have those credits. According to the National Center for Education Statistics, more than one-third of community college students (37%) have family incomes of less than \$20,000 per year.²⁰ Immigrants and the children of immigrants make up nearly a third of the student population at community colleges.²¹ Many face the same struggles as other community college students, attending college part-time while juggling jobs and family responsibilities. However, immigrant-origin students often face unique financial challenges and experience difficulties in marshaling the financial resources to pay college tuition and fees. They are less likely than other students to apply for financial aid, tend to be debt inverse, and cover most of their college costs themselves.²² The proposed fee increases and elimination of fee waivers will prove especially

¹⁶ Tom K. Wong et al., Center for American Progress et al., *DACA Recipients' Livelihoods, Families, and Sense of Security are at Stake This November*, Sept. 19, 2019, <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.
¹⁷ *Id.*

¹⁸ Roberto G. Gonzales, Sayil Camacho, Kristina Brant, and Carlos Aguilar, *The Long-Term Impact of DACA: Forging Futures Despite DACA's Uncertainty*, 2019, Immigration Initiative at Harvard, available at <https://www.gse.harvard.edu/news/19/11/highlighting-long-term-impact-daca>.

¹⁹ Gaby Pacheco, *In their Own Words*, October 2018, *TheDream.US*, available at <https://www.thedream.us/news/intheirownwords/>.

²⁰ *Community College FAQs*, Community College Research Center, Teachers College, Columbia University, <https://ccrc.tc.columbia.edu/Community-College-FAQs.html>.

²¹ Current Population Survey—Education Supplement, Migration Policy Institute, Oct. 2017 (on file with author).

²² Teranishi, R.T., Suárez -Orozco, C., & Suárez -Orozco, M., Immigrants in community colleges: Effective practices for large and growing population in U.S. higher education. *The Future of Children*, 21 (1), 153-169, available at <https://files.eric.ed.gov/fulltext/EJ920371.pdf>, as cited in *Immigrant-Origin Students in Community College: Navigating Risk and Reward in Higher Education*, (2019), New York and London: Teachers College Press, Columbia University.

punishing for hard-working, low-income immigrant students by depriving them of future opportunities to adjust their status, gain citizenship, and apply for DACA renewal.

5. Proposed Fee Schedule Would Decrease Experiential Learning Opportunities

The proposed increase in fees, especially for DACA, asylum, adjustment of status, and naturalization, would represent a significant financial burden on low income immigrants who would be eligible to apply. The proposed fees would likely discourage these individuals from seeking all kinds of support that would help them in their application process. This can include legal assistance, citizenship classes, ESL classes, and other kinds of support. Beyond the adverse consequences on the impacted immigrant populations, the proposed rule will also impact our students who gain invaluable experiential learning opportunities through programs and clinics designed to support low-income populations in our community.

6. The Proposed Increase in DACA Fees Would Violate Existing Nationwide Preliminary Injunctions

USCIS is under three district court orders that preliminarily enjoin USCIS from rescinding DACA. These orders also require USCIS continue to accept renewal requests and continue to implement DACA in a manner *identical* to before the rescission date. As the court in the *Regents* case ordered, USCIS **must** “maintain the DACA program on a nationwide basis on the same terms and conditions as were in effect before the rescission on September 5, 2017, including allowing DACA enrollees to renew their enrollments [.]”²³ The court in *Batalla* similarly stated that USCIS was directed to “maintain the DACA program on the same terms and conditions that existed prior to the promulgation of the DACA Rescission Memo.”²⁴

A 55 percent increase in fees would likely establish insurmountable economic barriers for applicants seeking to renew their DACA. For these individuals, an unaffordable fee increase would likely represent a constructive denial for their renewal applications, violating the spirit and text of the three preliminary injunctions.

6. USCIS’ Proposed \$50 for Asylum Seekers Runs Counter to Our Obligation to Assist Refugees

USCIS plans to impose a \$50 fee for those filing for affirmative asylum. Our nation and higher education campuses have a moral imperative to accept asylum seekers as well as obligations under domestic and international laws. Asylees bring diverse perspectives to our classrooms, both as students and scholars. As a signatory to the 1967 Protocol of the 1951 Convention Relating to the Status of Refugees, our country has an obligation to accept asylum seekers who seek protection.

Refusing asylum applicants for the inability to pay would effectively cause the United States to break its treaty obligations and flies in the face of the basic intent of the 1980 Refugee Act. In fact, the vast majority of countries who are signatories to the 1951 Convention or 1967 Protocol do not charge a fee for an asylum application.²⁵ The United States has long been a world leader in refugee protection. If the United States imposes a filing fee for asylum, other countries may begin to do the same. This could have disastrous effects on refugee resettlement when the number of refugees and displaced people are at historic highs. We must adhere to our international and domestic obligations and not refuse asylum seekers their chance to seek protection simply for the inability to pay. Asylum is the first step for individuals to be able to normalize and stabilize their life and one day pursue or teach in higher education.

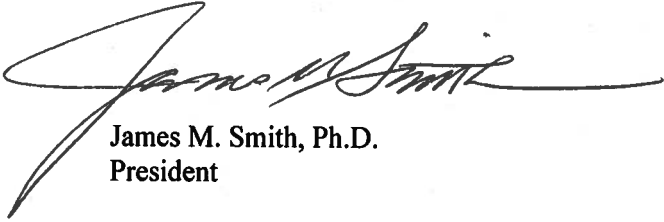
²³ United States District Court for the Northern District of California, *Regents of Univ. of Cal. v. DHS*, 279 F. Supp. 3d 1011 (N.D. Cal. 2018) available at <https://www.nilc.org/wp-content/uploads/2018/01/Regents-v-DHS-prelim-injunction-2018-01-09.pdf>. The other two preliminary injunctions contained a similar directive

²⁴ Eastern District of New York, *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401 (E.D.N.Y. 2018) available at <https://www.nilc.org/wp-content/uploads/2018/02/Batalla-Vidal-v-Nielsen-updated-pi-order-2018-02-13.pdf> (see page 53).

²⁵ See Zolan Kanno-Youngs and Miriam Jordan, *New Trump Administration Proposal Would Charge Asylum Seekers an Application Fee*, N.Y. TIMES, Nov. 8, 2019, <https://www.nytimes.com/2019/11/08/us/politics/immigration-fees-trump.html> (Noting that the United States would be only the fourth country in the world to charge a fee for asylum).

For these reasons, USCIS should promptly withdraw the provisions of its proposed fee schedule that would make immigration benefits less accessible to hard-working students, families and vulnerable migrants.

Thank you for the opportunity to submit comments on the proposed fee schedule. Please do not hesitate to contact me at president@emich.edu.

A handwritten signature in black ink, appearing to read "James M. Smith". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James M. Smith, Ph.D.
President