**USCIS FEE SCHEDULE TEMPLATE COMMENT - INSTRUCTIONS**

Attached is a template to help you draft a public comment in response to the administration’s proposed USCIS fee schedule that disproportionately targets vulnerable and low-income immigrants. (Read more about the proposed rule [here](https://cliniclegal.org/fee-schedule-changes).)

**Why submit a public comment?** When the government proposes a new rule, they are required (by the Administrative Procedures Act) to give the public an opportunity to read the rule and submit comments. The comment you submit will be public record and available for anyone to read. After the comment period closes, the government agency that proposed the rule must read all of the comments submitted, and take them into consideration when drafting the final version of the rule. If a very large number of people submit comments, and those comments identify significant problems with the regulation, then it will take longer for the final rule to be published and take effect, or the agency may make amendments to the rule.

**How do I submit a comment?** Comments should be submitted online at regulations.gov [click [here](https://www.regulations.gov/document?D=USCIS-2019-0010-0001) to go directly to the fee schedule]. Click on the “comment now” button and either enter your comment in the text box (must be fewer than 5,000 characters) or upload your comments as a PDF. There are also step-by-step commenting instructions available [here](https://cliniclegal.org/resources/step-step-instructions-how-submit-public-comment). Below are some important tips to keep in mind as you are drafting your comment.

**Write comments in your own words.** The template on the following pages is intended to help guide you and give you an example and ideas, but ***the comment should be edited with your original words***. Feel free to delete whole sections or paragraphs and replace them with your organization’s perspective on the issue. USCIS will bundle any comments that are too similar to each other, and they may be considered as one comment, rather than as individual submissions.

It may be helpful, prior to drafting your comment, to do some research on your own program and practice, the demographics of your clients, and the local community. Consider what aspects of the rule will be particularly troublesome to your organization and your clients. Gather some numbers and statistics that you can use to demonstrate how many of your clients or people in your community will be affected, how and to what extent, and at what financial cost.

The template comment below has a two-page body, and the pages following the body contain individual paragraphs on various topics that your organization may be interested in addressing. You can review the paragraphs, and pull any of particular interest to you into the main body of the letter, then customize the language to fit your own organization’s position and experiences.

**Attach research and supporting documents.** If you cite to statistics or supporting documents in your comments, we recommend including them as an attachment so that they are clearly part of the administrative record. Another option is to include a live link to cited sources. If you include links, specifically request that the agency read the material at these links.

**If you have experience in an issue area, say so.** If you are a subject matter expert and want to offer comments on your area of expertise, explain why you are qualified to offer this perspective. Feel free to explain your educational and professional background, or attach a copy of your CV to your comments.

**Provide contact information for a representative of the organization.** Organizational comments should be signed by a representative of the organization, and provide the business contact information of the representative for any follow-up questions or concerns. However, keep in mind that this comment will be publicly available, so personal addresses or cell phone numbers are not recommended.

[DATE]

*Submitted via 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

[ORGANIZATION] respectfully submits this comment on the proposed U.S. Citizenship and Immigration Services (USCIS) Fee Schedule, published on November 14, 2019. We are concerned about a number of the fee and policy proposals in the published fee schedule, and request that USCIS withdraw all provisions that make immigration benefits less accessible to low-income and other vulnerable immigrants.

[INSERT paragraph describing your organization, why this is particularly urgent to your organization, and the expertise that your organization has on issues raised. If you are a Catholic member, there is a sample paragraph of Catholic Social Teaching below that you can use.]

1. General Comments

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. These unwarranted changes would result in financial hardship for immigrant and mixed-status families, immigrants delaying or losing immigration status due to financial considerations, increased dependence on debt to finance applications, and decreased involvement of qualified legal assistance resulting in difficult and inefficient USCIS processing and adjudication, among many other problems.

[ORGANIZATION] opposes USCIS’ attempt to place the burden of its own mismanagement on the backs of hard-working immigrant families. Since 2010, USCIS has increased filing fees by weighted averages of 10 percent and 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,[[1]](#footnote-1) the overall average case processing time had increased 91 percent between 2014 and 2018,[[2]](#footnote-2) and USCIS has removed language from its resources that stated any commitment customer service.[[3]](#footnote-3) USCIS’ purported shortfalls are a manmade problem that is a result its poor policy and organizational choices.

We describe below how some of these changes will impact our organization and our clients, and the reasons for our opposition. Omission of any proposed change from this comment should not be interpreted as tacit approval. We oppose all aspects of the proposed fee schedule that would act as a barrier between low-income immigrants and the immigration benefits for which they qualify.

[Select paragraphs below that apply to your organization’s concerns and your practice. Please continue to customize the language to make it unique to your organization.]

For the reasons provided here, USCIS should promptly withdraw the provisions of its proposed fee schedule that would make immigration benefits less accessible to hard-working families and vulnerable people. USCIS has not used the filing fees applicants have already paid to USCIS efficiently, and they must not be expected to bear a significant increase in fees without improvement in processing times, backlogs, and customer service.

Thank you for the opportunity to submit comments on the proposed fee schedule. Please do not hesitate to contact [Insert contact information] to provide further information.

Name

Title

Organization

**USCIS’ Proposal to Limit Payment Types Would Disadvantage Low-Income Immigrants**

USCIS proposes to make the method of fee payment changeable form-by-form through a designation in the form instructions. This would allow USCIS to prohibit the use of certain types of payment, like cashier’s checks or money orders, for certain application or petitions in favor of other methods of payment such as online payments. This proposed limitation would cause hardship to low-income applicants and petitioners, as reliable internet access, U.S. bank accounts, and well-established credit scores are assets that may only be available to more wealthy immigrants. As representatives of hard-working immigrant families, we request that USCIS accept cashier’s checks and money orders as methods of payment for all applications and petitions.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**USCIS’ Proposal to Transfer Applicant Fees to ICE Is Improper**

In the proposed fee schedule, USCIS seeks over two years to transfer $415.2 million in applicant fees held in the Immigration Examinations Fee Account, or IEFA, to Immigration and Customs Enforcement, or ICE, for enforcement purposes. [ORGANIZATION] vehemently opposes this misuse of applicant fees.

Congress codified in the Immigration and Nationality Act, or INA, that the applicant-funded IEFA is 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 from IEFA to ICE, USCIS is betraying not only its own mission but also Congress’s clear statutory intent. We find it wholly improper to accept payments from immigrants intended for adjudication of their immigration benefits, and to redirect those funds to be used for enforcement against their communities.

**USCIS Should Maintain Fee Waivers for All Current Categories**

The fee schedule proposes to eliminate filing fee waivers for all categories except those that are statutorily required. This proposal would make essential benefits such as citizenship, green card renewal, and employment authorization inaccessible for low-income immigrants. Fee waivers help families to improve their stability, financially support themselves, and fully integrate into their communities. These immigration benefits have the power to lift up and transform families, communities, and the country as a whole. Because of the benefits of naturalization—one of the form types most frequently associated with fee waiver requests[[4]](#footnote-4)—Congress has called on USCIS to keep the pathway to citizenship affordable and accessible.[[5]](#footnote-5) A recent Congressional Committee report states, “USCIS is expected to continue the use of fee waivers for applicants who can demonstrate an inability to pay the naturalization fee.”[[6]](#footnote-6) USCIS’ proposed elimination of filing fee waivers would severely undermine Congressional intent, and is also a flawed and shortsighted policy.  It will result in considerable harm to new American families and the nation’s democracy as a whole.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**Adjustment of Status Applications Should Remain Bundled and Affordable**

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. A minimum-wage worker who is likely already living paycheck-to-paycheck would have to work an extra 134 hours just to cover the increase in the application fees. Increasing the overall cost of adjustment of status would prevent many low-income individuals from becoming permanent residents and undermine family unity.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**The Petition to Remove Conditions on Residence Should Remain Accessible**

USCIS proposes a 28 percent increase to the current fee for filing Form I-751 Petition to Remove Conditions on Residence, from $595 to $760. This increase and the elimination of the fee waiver make it more difficult for low-income families to file timely. Late filing can have severe consequences, including the conditional resident’s loss of lawful status and the risk of being placed into removal proceedings. Furthermore, those filing Petitions to Remove Conditions are often eligible to file for Naturalization very shortly afterward. Due to the fee increases in both of these categories, applicants for both benefits would go from paying $1,235 in filing fees to $1,930—a 56 percent increase in payment during that short period of time.

A conditional resident who has entered into a qualifying marriage in good faith but whose spouse has battered or subjected the noncitizen or their child to extreme cruelty may request a waiver of the joint filing requirement. While the proposed rule preserves fee waivers for self-petitioners under the Violence Against Women Act, or VAWA, it would not do so for Form I-751 waiver applicants who have been subjected to battery or extreme cruelty. This is an unjust result for applicants who are in a comparable situation.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**Fee Waivers Should be Available to 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.[[7]](#footnote-7) Moreover, the affidavit of support contract terminates only after specific criteria are met.[[8]](#footnote-8) 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.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**USCIS Should Withdraw the Fee Increase for the Provisional Waiver**

The creation of the provisional waiver was intended to encourage eligible individuals to complete the immigrant visa process abroad, promote family unity, and improve administrative efficiency.  Having an approved provisional waiver helps facilitate immigrant visa issuance at the Department of State (DOS), streamlines both the waiver and the immigrant visa processes, and reduces the time that applicants are separated from their U.S. citizen or lawful permanent resident family members, thus promoting family unity.[[9]](#footnote-9)

Under the proposed rule, the filing fee for the Form I-601A Provisional Unlawful Presence Waiver would increase 52 percent from the current cost of $630 to $960. This steep increase and the elimination of fee waivers would discourage individuals from consular processing and undermine the purpose of the provisional waiver.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**The Filing Fees for Religious Workers Should Not Be Increased**

USCIS proposes to increase the fees to petition for religious workers, both for the temporary R-1 Visa and the I-360 Petition for Special Immigrant that precedes a filing for lawful permanent residence. The fee for an R-1 visa would increase from $460 to $705, a 53 percent increase. The fee for the Special Immigrant Petition would increase from $435 to $455, a 5 percent increase. This, in combination with the significant increases to the adjustment of status forms [addressed above/below], would make petitioning for Special Immigrant Religious Workers far less accessible.

A petitioner for an I-129 petition for an R-1 religious worker or an I-360 Special Immigrant Religious Worker is a non-profit faith-based organization. The Catholic Church is composed of hundreds of such religious orders dedicated to the Gospel and Jesus Christ. These religious brothers and sisters play a critical role in pastoral care, often serving those in great need in their communities. Due to the non-profit nature of this work, both petitioner organizations and the religious workers they sponsor often have limited resources. Religious workers often receive little to no income, despite the vital work they perform. In fact, vowed members of religious orders profess the vow of poverty: they cannot keep income from their work and instead contribute any compensation they receive to their order to further their mission, helping those in need. Consequently, the proposed fee increases for I-129 and I-360 petitions unduly burdens both U.S. petitioners of religious workers and religious workers themselves. These steep fee increases will have a chilling effect on U.S. religious organizations and religious workers: many organizations will no longer be able to afford bringing religious workers to the United States, and many religious workers will not be able to afford to start their journey to permanent residence. By raising fees on religious workers, USCIS is effectively burdening religious orders and their vital work in American communities.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**USCIS Should Not Impose a Renewal Fee for DACA**

The current total fee for Deferred Action for Childhood Arrivals (DACA) renewals is $495. USCIS proposes to establish a new, additional $275 fee for Form I-821D, which would raise the new total cost for DACA renewal to $765. This 55 percent increase would create a significant barrier to accessing the protection from deportation and work authorization young immigrants need for their stability.

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.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**USCIS Should Not Impose a Fee to File for Asylum**

USCIS plans to impose a $50 fee for those filing for affirmative asylum. 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.

Refusing asylum applicants for the inability to pay would effectively cause the U.S. 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.[[10]](#footnote-10) 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. The U.S. should adhere to its international and domestic obligations and not refuse asylum seekers their chance to seek protection simply for the inability to pay.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

**Naturalization Fees Should Be Affordable**

The proposed fee schedule would increase the filing fee for Naturalization from $640 to $1,170, an 83 percent increase. This substantial increase would make naturalization less accessible for low-income and working class people. The benefits of naturalization to individuals and the U.S. society cannot be overstated and the application must not overpriced in order to avoid suppressing access to the benefits. “Citizenship can serve as a catalyst for immigrants to become more: dedicated to democratic principles; informed about the Constitution; engaged in political elections; represented in the political system; proficient in the English language; unified as families; employable in higher paying jobs; and integrated within a wider circle of people and institutions.”[[11]](#footnote-11) With approximately 9 million Lawful Permanent Residents, or LPRs, eligible to naturalize who have not yet filed,[[12]](#footnote-12) and the significant benefits that immigrant integration brings to the United States, it is in the country’s best interests to incentivize naturalization by maintaining a low application fee.

In combination with the elimination of the fee waiver, the fee increase for Naturalization would make citizenship unattainable for low-income immigrants. Congress has called on USCIS to keep the pathway to citizenship affordable and accessible.[[13]](#footnote-13) Pursuant to this expectation, USCIS has historically redistributed a portion of the cost of naturalization applications among other application fee types to subsidize affordable naturalization and encourage immigrant integration.[[14]](#footnote-14) This proposed fee rule would abandon that historic practice and charge the actual cost of naturalization to applicants, disregarding the agency’s previous concern for incentive and the affordability of naturalization. The proposed fee increase is contrary to Congressional intent, and contrary to the interests of the United States society and economy.

[Include organizational data or a story that demonstrates why your organization or your clients are concerned about this issue]

1. 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). [↑](#footnote-ref-1)
2. Am. Immigr. Law. Assoc., AILA Policy Brief: USCIS Processing Delays Have Reached Crisis Levels under the Trump Administration (2019), <https://www.aila.org/advo-media/aila-policy-briefs/aila-policy-brief-uscis-processing-delays>. [↑](#footnote-ref-2)
3. *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). [↑](#footnote-ref-3)
4. 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. [↑](#footnote-ref-4)
5. H. Rep. No. 115-948 accompanying H.R. 6776, the Department of Homeland Security Appropriations Act (2019). [↑](#footnote-ref-5)
6. Id. [Emphasis added]. [↑](#footnote-ref-6)
7. INA 212(a)(4)(C); 8 CFR 213a.2(b)(1). [↑](#footnote-ref-7)
8. “The liability of the sponsor executing the affidavit of support terminates only when the sponsored immigrant becomes a U.S. citizen, earns or is credited with a total of 40 qualifying quarters as defined by social security law; dies; loses or abandons LPR status and departs the U.S.; or is ordered removed but readjusts status in immigration proceedings.” *See* 8 CFR § 213a.2(e)(2)(i). [↑](#footnote-ref-8)
9. 81 Fed. Reg. 50244. [↑](#footnote-ref-9)
10. *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). [↑](#footnote-ref-10)
11. Jeff Chenoweth and Laura Burdick, Catholic Legal Immigration Network, A More Perfect Union: A National Citizenship Plan, at vii, <https://cliniclegal.org/resources/guides-reports-publications/more-perfect-union-national-citizenship-plan>. [↑](#footnote-ref-11)
12. Robert Warren and Donald Kerwin, *The US Eligible-to-Naturalize Population: Detailed Social and Economic Characteristics*, 3 J. Migration & Hum. Security 306, 306 (2015). [↑](#footnote-ref-12)
13. H. Rep. No. 115-948 accompanying H.R. 6776, the Department of Homeland Security Appropriations Act (2019). [↑](#footnote-ref-13)
14. *See, e.g.*, U.S. Citizenship and Immigration Services Fee Schedule, 75 Fed. Reg. 58,975, www.govinfo.gov/content/pkg/FR-2010-09-24/pdf/2010-23725.pdf. [↑](#footnote-ref-14)