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**SUBMITTED VIA [WWW.REGULATIONS.GOV](http://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, DC 20529

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

Dear Chief Deshombres,

The National Asian Pacific American Women's Forum (NAPAWF) 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 strongly request that USCIS withdraw all provisions that make immigration benefits less accessible to low-income and other vulnerable immigrants.

NAPAWF is a national, multi-issue organization whose mission is to build a movement to advance the social justice and human rights of Asian American and Pacific Islander (AAPI) women and girls living in the U.S. To that end, we use policy advocacy and community organizing to advance reproductive health and rights, immigrant rights, and economic justice. As a national organization, we work in several different cities with full-time community organizers including, in Chicago, Atlanta, and New York. In addition, our membership comprises of local chapters based in eleven cities across the U.S.

At NAPAWF, we advocate through a reproductive justice lens. Reproductive justice is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. Reproductive justice will be achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination. The pay gap is a critical issue in the fight for equality and reproductive justice for AAPI women.

Just immigration policy is critical to the fight for equality and reproductive justice for AAPI women. A race and gender analysis is critical to the development of fair and just immigration reform and immigration-related policies. Racism and xenophobia are the backbone of anti-immigrant and anti-AAPI sentiments, including the barriers to thrive that our government has put in place to separate many AAPIs from our families for decades. As policy makers and advocates continue to push for reforms to the U.S. immigration system, few have considered the impact

these policies may have on immigrant women. Immigrant women are more likely than U.S. born women to live in poverty, be unemployed and lack health insurance.

## **Introduction**

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.

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,<sup>1</sup> the overall average case processing time had increased 91 percent between 2014 and 2018,<sup>2</sup> and USCIS has removed language from its resources that stated any commitment customer service.<sup>3</sup> USCIS' purported shortfalls are a man-made problem that is a result of its poor policy and organizational choices.

We describe below how some of these changes will impact the AAPI community 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 AAPI immigrants and the immigration benefits for which they qualify.

## **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.

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<sup>1</sup> *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*, 116<sup>th</sup> 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).

<sup>2</sup> 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>.

<sup>3</sup> 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).

For AAPI communities, this aspect of the rule could be especially harmful, as 28 percent of Asian immigrants and 46 percent of Pacific Islander immigrants have low incomes.<sup>4</sup> When disaggregated, certain ethnic groups have low incomes in even higher percentages.<sup>5</sup> For example, 66 percent of Burmese, 54 percent of Nepalese, 53 percent of Hmong, and 51 percent of Bangladeshi immigrants have low incomes.<sup>6</sup> Limiting payment types would only create further roadblocks for those in AAPI communities who live with low incomes and rely on methods like cashier's checks and money orders in order to make payments.

### **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. NAPAWF 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.

AAPI communities, specifically Southeast Asians, are often deeply harmed by ICE's policies of detention and deportation. Southeast Asian immigrants are the largest refugee community ever resettled in the United States.<sup>7</sup> Because of the Vietnam War legacy, the U.S. only established repatriation agreements with Cambodia in 2002 and with Vietnam in 2008, though only immigrants who entered after 1995 may be deported to Vietnam.<sup>8</sup> The U.S. and Laos still have no formal agreement. As a result, at least 1,500 people still remain in the U.S. with final deportation orders to Cambodia, 4,200 to Laos, and 8,400 to Vietnam: a total of at least 14,000 people living day-to-day not knowing if or when they would be deported.<sup>9</sup> As a result, many Southeast Asian families and communities live in constant fear of detention and deportation by

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<sup>4</sup> Asian Americans Advancing Justice, *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* (2019), [https://www.advancingjustice-aaajc.org/sites/default/files/2019-06/1153\\_AAJC\\_Immigration\\_Final\\_Pages\\_LR-compressed.pdf](https://www.advancingjustice-aaajc.org/sites/default/files/2019-06/1153_AAJC_Immigration_Final_Pages_LR-compressed.pdf).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> The Southeast Asian Resources Action Center, *Fact Sheet: The Devastating Impact of Deportation on Southeast Asian Americans*, <https://www.searac.org/wp-content/uploads/2018/04/The-Devastating-Impact-of-Deportation-on-Southeast-Asian-Americans-1.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

ICE. Providing increased funds to ICE, as this rule would do, would greatly harm the Southeast Asian community.

### **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, including those from AAPI communities. Fee waivers help ensure an equitable immigration system that is not only reserved for those with access to resources and wealth. These immigration benefits have the power to lift up and transform families, communities, and the country as a whole. Removing fee waivers will disproportionately impact AAPI immigrant communities, particularly those who have low incomes and significantly harm on AAPI communities as a whole.

### **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.

This change would also negatively impact AAPI communities. 4 in 5 Asian American low wage workers are immigrants.<sup>10</sup> As stated, this change would directly impact minimum-wage workers, particularly immigrants who are already using their limited funds to establish their lives in a new country. By proposing separate fees for the concurrently filed Forms I-485, I-765, and I-131, USCIS would cause a stark increase in fees, directly harming the many Asian American immigrants who are low wage workers.

### **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 income families. This is of particular concern for AAPI

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<sup>10</sup> Asian Americans Advancing Justice, *supra*.

communities, as the majority of AAPI immigrants come to the United States through family sponsorship.<sup>11</sup>

### **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. 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.

Maintenance of an accessible DACA program is vital for the AAPI community, as over 16,000 young Asian immigrants have received protection under DACA, and over 120,000 of the Asian immigrants who are undocumented are eligible for DACA.<sup>12</sup>

### **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 flout 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.<sup>13</sup> 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.

Access to asylum is vital for the AAPI community. According to the Department of Homeland Security, China is the top leading country of origin for individuals granted asylum.<sup>14</sup> Imposing a fee on asylum seekers is an unjust policy that will harm many people who fear for their lives in their home countries, including many AAPIs.

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<sup>11</sup> *Id.*

<sup>12</sup> Asian Americans Advancing Justice, *Advancing Justice Condemns the Administration's Termination of DACA* (2017), [https://www.advancingjustice-alc.org/news\\_and\\_media/advancing-justice-condemns-the-administrations-termination-of-daca/](https://www.advancingjustice-alc.org/news_and_media/advancing-justice-condemns-the-administrations-termination-of-daca/).

<sup>13</sup> 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).

<sup>14</sup> Yamiche Alcindor and Amna Nawaz, *Who is affected by Trump's new rule for claiming asylum*, PBS, July 15, 2019, <https://www.pbs.org/newshour/politics/who-is-affected-by-trumps-new-rule-for-claiming-asylum>.

## **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, including AAPIs with low incomes. 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.<sup>15</sup> 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.<sup>16</sup> 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.

## **Conclusion**

For the above stated reasons, NAPAWF urges USCIS to reconsider the proposed U.S. Citizenship and Immigration Services (USCIS) Fee Schedule, published on November 14, 2019. These provisions, which directly harm immigrants, refugees, and those seeking asylum with lower incomes are deeply harmful to the AAPI community. We demand USCIS rescind this rule and better ensure an equitable immigration system.

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<sup>15</sup> H. Rep. No. 115-948 accompanying H.R. 6776, the Department of Homeland Security Appropriations Act (2019).

<sup>16</sup> 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](http://www.govinfo.gov/content/pkg/FR-2010-09-24/pdf/2010-23725.pdf).