



December 19, 2019

Samantha Deshommes  
Chief, Regulatory Coordination Division  
Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue, NW  
Mailstop #2140  
Washington, DC 20529-2140

Re: U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements; DHS Docket No. USCIS-2019-0010 Proposed rule; extension of comment period; availability of supplemental information; DHS Docket No. 2019-26521.

Dear Ms. Deshommes,

I write on behalf of NAFSA: Association of International Educators in opposition to the proposed rule to increase U.S. Citizenship and Immigration Services (USCIS) filing fees published at 84 FR 62280. NAFSA is the world's largest association of international education professionals with over 10,000 members nationwide and around the world. International students and scholars, along with the U.S. colleges and universities that educate and employ them, file tens of thousands of petitions and applications with USCIS annually.

The United States is a nation of immigrants that is continually renewed by and benefits from new immigrants. We value community engagement by all who live in the United States, and welcome those who wish to become U.S. citizens. The President has expressed support for attracting and retaining international students and scholars because of the positive impact they have on the United States. Yet at the regulatory level, too often unnecessary barriers and disincentives are placed in their way. Increasing fees is an example to scholars of another costly roadblock. I therefore request USCIS promptly withdraw the proposed fee schedule.

The United States reaps immeasurable benefits—for our foreign policy, our students' education, our economy, our competitiveness, and our public diplomacy—from attracting the best and brightest minds and the next generation of world leaders to America's educational institutions. At a time when competitor nations are focused on attracting and retaining international students and scholars, we cannot afford to price these benefits out of reach for those who want to come here to study, teach, and contribute to our communities and economy.

NAFSA understands that USCIS is primarily fee funded and is authorized by law to recover the full cost of services through fee payments. However, while the word “Services” remains in the name, the agency’s mission appears transformed. Instead of ensuring access to benefits and services to which non-U.S. citizens are eligible, aspiring Americans are met with unpublished policy changes, requests for duplicative filings, and processing delays. A new fair fee schedule must be in service to immigration law and to those who seek benefits and services. The proposed rule does not reflect the American values of welcoming immigrants into our communities and civil society. Many of the new proposed fees are so high that they, if implemented, threaten to put out of reach citizenship, green cards, and other benefits for which immigrants are eligible. Eliminating fee waivers for all categories except those that are statutorily required exacerbates this possibility. Even asylees fleeing for their lives are expected to pay a fee under this proposed rule. This proposed rule does not reflect American values.

### **USCIS Fees Should Not be Transferred to Enforcement**

The rule proposes to transfer from USCIS to Immigration and Customs Enforcement (ICE) millions of dollars paid by immigrants for benefits requests and other filings with USCIS. Initially, the rule sought the transfer of \$207.6 million from USCIS to ICE; this was adjusted to \$112.3 million in the recent extension of the fee rule comment period. USCIS fee funds should not be diverted for other purposes, especially at the same time USCIS is proposing fee increases. Immigrants’ USCIS filing fees already pay for enforcement because these fees are calculated to include fraud detection and national security, in addition to service and case processing. Transferring fee funds will amount to charging filers twice for enforcement. Furthermore, a transfer of funds runs counter to a foundational tenet of DHS. When the Immigration and Naturalization Service was abolished, the agency’s three core functions were separated to not only allow each to specialize, but to protect funding streams allocated to each of those functions. ICE, Customs and Border Protection (CBP), and USCIS may be unified under DHS, but Congress intended their funds to be separate.

### **Fee Funding Deters Innovation and Efficiencies**

Fee funding deters innovation and efficiencies and discourages USCIS from acting as good stewards of the fees currently paid by immigrants. Recent USCIS policies have focused on adding additional steps to processing, overturning long-standing efficient policies, and severely reducing engagement with impacted communities. For example, an October 23, 2017 USCIS memo specifically rescinded a 14-year-old policy which instructed adjudicators to give deference to prior eligibility determinations when adjudicating H-1B extension of stay petitions "involving the same parties and the same underlying facts." The now-overturned policy allowed deference to the prior decision unless the prior approval involved material error, a substantial change in circumstances, or if there is new material information that would question the petitioner's or beneficiary's eligibility. This one policy change significantly impacted processing predictability and timeliness. USCIS must focus on process efficiencies with the fees already collected instead of proposing a new fee schedule.

### **Prior Fee Increases Have Not Improved Timeliness or Accuracy**

It is important to note that previous fee increases have not been accompanied by an increase in timeliness or accuracy of services. In fact, as fees have increased, service has declined. More

money alone is not the answer to the persistent backlogs and unacceptably longer and longer processing times.

### **Unreasonable Fees**

The proposed rule includes unreasonable fees. For example, the proposed increase for the Application for Waiver of Passport and/or Visa (Form I-193) is a startling 377%, from \$585 to \$2,205. That is an unreasonable increase. While the proposed \$50 fee for asylum may seem nominal, it is unreasonable and cruel to charge a fee to people who are fleeing for their lives and seeking protection in the United States. Further, fee exemptions and waivers are entirely appropriate, and we fully support them. Exemptions exist as a matter of public policy and reflect our values.

Ultimately, increasing fees is not the answer to the ongoing challenges USCIS faces in meeting the needs of those who seek immigration benefits. USCIS must innovate and employ new processes. Further, excessive fees act as disincentives for international students, scholars, and others to come to our country and remain here and receive the benefits and services they need to become full participating members of our communities. We request that USCIS promptly withdraw the proposed fee schedule.

Thank you for the opportunity to comment.

Sincerely,

Esther D. Brimmer, D.Phil.  
Executive Director and CEO