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Tracy L. Renaud
Senior Official Performing the Duties of the Director
United States Citizenship and Immigration Services
United States Department of Homeland Security
Washington, DC 20528

Re: Docket USCIS-2021-0004

Dear Ms. Renaud:

I am writing in response to the call for input from DHS regarding how administrative burdens and other barriers impact the DHS regulations and policies implemented by universities. I appreciate that USCIS is seeking the input of immigrants, immigration attorneys, and other knowledgeable individuals and organizations regarding the impact the current rules, policies, and procedures have on immigrants and non-immigrants, and upon the efficiency, efficacy, and reputation of USCIS.

I am writing in my capacity as an immigration attorney, the Assistant Director of the International Student and Scholar Services office at the University of Minnesota-Twin Cities, and the Director of the University of Minnesota's Immigration Response Team. Drawing from a wealth of experience, and in consultation with my colleagues and our clients, I have several suggestions for how DHS can accomplish its objective to "identify process improvements for USCIS, with benefits for state, local, and tribal governments, for businesses (including small businesses and startups), for educational institutions of all kinds, for nonprofits, and for individuals."

The following are suggestions drawn from the experiences of international students and scholars, immigrant students and scholars, Designated School Officials (DSO) and Responsible Officers (RO), and immigration attorneys. I have separated the suggestions into a few main categories, but as many of these issues are interrelated, there is some overlap.

USCIS Customer Service

Foremost among the barriers impeding access to immigration benefits at USCIS are the crisis-level case processing delays and an ever-growing immigration backlog. In recent years, these challenges have been compounded by inefficient policies and practices that needlessly delay adjudications and divert resources away from the agency's core function of service-oriented adjudications. In addition, over the past four years, USCIS has shifted its priorities away from its customer-oriented origins, resulting in the deterioration of customer service at the national and local level. Here are a number of specific suggestions for how USCIS can improve customer service:

- Reinstitute InfoPass appointments at local USCIS offices
    - The current model forces applicants and their attorneys to spend hours on the phone trying to access an appointment, wasting time of the applicants as well as USCIS (USCIS staff managing the phone calls lack knowledge of the applications or processes). USCIS previously used an online InfoPass scheduling system that worked well, and should be reinstated.
- Improve opportunities for liaison activity between attorneys and the agency
    - This relationship was purposefully disrupted over the last four years, to the detriment of immigrant/applicants, as well as the effectiveness of immigration attorneys, and the functioning of the agency. Requiring all local USCIS offices to provide a formal email address for immigration attorney communication with USCIS would facilitate inquiries, interview rescheduling, and the overall efficiency of USCIS processes.
- Improve online case status inquiry process and response times and customer service phone line
    - When contacting USCIS by phone, do not require a receipt number if one is not yet available
    - Increase staffing of USCIS customer service phone line
    - Improve training and increase expectations for USCIS customer service agents. Applicants and their attorneys spend hours trying to reach a live person through the automated system, only to finally reach one and receive no information beyond an agent reading the (scarce) information that is available in the online case inquiry tool. USCIS should properly train and empower agents to provide useful information.
    - Abolish the policy of only sharing case information with the attorney of record and resume sharing information with representatives for the attorney of record.
- Retrain adjudicators on the appropriate standards of proof
    - The burden established by immigration law and regulations is generally that eligibility for an immigration benefit must be demonstrated by a “preponderance of the evidence” - adjudicators regularly issue RFEs and denials based on much higher standards. This is a training and supervision issue within USCIS.
- Restore the mission of being a “nation of immigrants”
    - USCIS should take immediate action to rescind the February 2018 changes to its mission statement and replace it with one that is more welcoming to foreign citizens and more open to fairly adjudicating their requests. If the goal is to remove barriers, the best place to start would be in the organization’s mission statement, which, at present, essentially says to foreign citizens “we do not want you here and will do everything we can to make your stay more difficult.”
- Address Processing Times
    - USCIS processing times are by far the most significant barrier to foreign citizens seeking immigration services and benefits. Extended processing times cause a number of problems for applicants, create a great deal of anxiety, and in some

cases, prompt additional work on the part of USCIS that further slows down the process.

- USCIS is a fee-funded agency, which means that it relies on applicant fees to do its work. This also means that applicants pay hundreds (sometimes thousands) of dollars for USCIS "services." It is detrimental to the applicants, and to USCIS itself, to insist on policies and procedures that intentionally slow and obscure the work of adjudicating applications for immigration benefits. Applicants deserve consistency, transparency, and reliability when working with USCIS.

Technology and Process Inefficiencies/Redundancies

USCIS can make massive improvements by updating and modernizing its methods for adjudicating applications and notifying applicants of decisions. The following are a number of areas that desperately need improvement:

- Implement electronic notification of approvals, receipts, RFEs, etc. for all cases
- Allow for submission of RFE responses by email
    - Some application types currently allow for response by fax, and others require response by paper mail. Expand options for online filing of forms/petitions
- Expand acceptance of electronic payments
- Eliminate requirement to file duplicate I-129s
    - Technology should allow for duplication by USCIS (e.g., scanning)
- Resume accepting prepaid express mail return envelopes
- Minimize burdensome paperwork requirements
    - Multiple forms requiring repetitive information - forms have become longer and more complicated, contain confusing and duplicative questions, and lead to unnecessary rejections
    - Forms are difficult to complete - they often contain fields that cannot be filled on the computer, and must be handwritten
    - Follow AILA recommendations to "take steps to streamline the questions asked in forms, develop ways to allow for submission of certain information...and to bundle adjudication of related forms"
    - Form I-129, I-539, I-765 have all gotten longer, more complicated, and more confusing. USCIS should work to streamline the application process, review the forms and information that is requested to minimize the odds that errors will be made by applicants due to confusion about what information is sought.
    - Refrain from publishing new editions of forms - from AILA: " Implementing new editions of forms takes away time and resources from an already resource-strapped agency as USCIS intake staff and adjudicators must be trained on the new content of the forms. In order to minimize inefficiencies, USCIS should refrain from issuing new editions of forms and instead extend without change the current edition of all forms that are currently undergoing review at the Office of Management and Budget (OMB) unless comments have been submitted by the public supporting the need for changes to the current edition of the forms."

- Reduce redundancy in evidence collection
    - Many applicants are required to submit evidence with their USCIS application that is easily obtained by USCIS officials. In many instances, the information has already been obtained by USCIS through internal means to support adjudication of an application. For example, nearly every application requires submission of an I-94. However, in most cases, this information is already present in digital form within the government's I-94 system. Requiring the applicant to download a digital record from one government system and upload or submit the record to a second government entity is redundant, and highlights the lack of connection between government agencies, which is an unfortunate image to convey. Likewise, F-1 students applying for STEM OPT Extension are required to supply the E-Verify number of their employer. However, SEVIS already contains the employer's name and EIN number, which can easily be used to cross-reference the employer with the E-Verify system. Specifically naming an employer on the I-765 requires that institution DSOs submit an updated I-20 on behalf of the student to the Potomac Service Center in the event employer information changes while an application for STEM extension is pending. This action is redundant since all employer information is already housed within the SEVIS system to which USCIS is able to access and likely already does for verification purposes. Even requiring the physical I-20 with the recommendation for OPT/STEM OPT is unnecessary since that information is already located within SEVIS. Each redundancy creates an additional barrier to the applicant as it creates more room for applicant error, places a greater time burden on the applicant, and requires USCIS adjudicators to verify each piece of evidence and to reject or deny applications where items may be missing. Each rejected or denied application is a barrier to the applicant and more work for USCIS.
- Improve the application correction and/or withdrawal processes
    - USCIS lacks a consistent mechanism to correct/add evidence to applications that have already been submitted. Applicants can take a leap of faith and mail correspondence to the service center, but there is no guarantee that it will end up in the right place at the right time. Similarly, the withdrawal process is equally cumbersome and requires human intervention at USCIS to review. The ability to correct an application or request its withdrawal should be offered through the USCIS online system. Withdrawals specifically should be instant and should immediately remove the application from the USCIS queue. Doing so would free up valuable time within USCIS that could be used to speed up application processing in other areas. The ability to correct an application would likewise speed up processing as it would avoid the need for USCIS to issue time consuming RFEs or application rejections. This would also remove a number of barriers and uncertainty for applicants as they would have more confidence in the ability to correct an error discovered after filing.

Policy Adjustments and/or Changes

- Concurrent adjudication of applications that are filed concurrently (e.g., I-539 filed with I-765 for H-4 applicants)
- Issue RFEs instead of rejection for outdated application fee checks
- Eliminate the requirement to file OPT application within 30 days of a DSO recommendation
- Clearly state that electronic signatures on I-20s are accepted as long as SEVP allows (concurrent with DOS and CBP acceptance)
- Return to the expectation of 90 days for I-765 processing
- B-2 Bridge petitions
    - Rescind the need for "bridge" applications: In April 2017 and again in February 2018, USCIS issued two different policy directives targeted specifically at non-immigrants in the United States wishing to change to F-1 or M-1 status—a policy targeted specifically at international students. These policy changes added an extra step that required I-539 applicants wishing to change status to F-1 or M-1 to file a second (or in some cases, a third) I-539 to extend their current status while the original I-539 is pending. This is commonly referred to as "bridging the gap," which essentially forces applicants to extend a status they no longer wish to maintain. Since I-539 applications requesting a change to F-1 status routinely take 8 to 12 months or longer to process, this requirement essentially double or triple charges students to see through their original intent. This policy is overtly discriminatory to international students and places an immense financial and logistical burden on them. USCIS should immediately rescind this policy and revert to legacy practice where a timely filed I-539 allows a student to remain in the United States until adjudication is complete.
- Eliminate mandatory in-person interviews for routine PR applications
    - With respect to employment-based cases, USCIS requires FBI background checks on all individuals so the requirement for in-person interviews for employment-based cases does not provide any greater insight into eligibility. This is different from marriage-based AOS cases where the relationship itself is in question and the couple should be seen in person. By eliminating in-person interviews for employment-based PR applications, the time and the number of administrative burdens would be significantly reduced, and allow employers to put their employees to work sooner. is increased, delaying the ability of employers to put their employees to work.
    - Reusing biometrics and waiving the biometrics requirement for certain groups would immensely reduce case backlogs and other delays, particularly as COVID-19 has decreased the capacity for USCIS to accept biometrics.
- Stop rejecting applications on the basis that they are filed "too early" (often an arbitrary date/timeline), particularly as USCIS processing typically takes long enough that an applicant's work authorization or other status expires before being adjudicated.USCIS should auto-extend all timely filed EAD renewal/extension applications until the point of adjudication (not just the categories currently authorized this way)

    - 180-day auto extension (for those categories currently eligible) is insufficient when USCIS routinely takes longer than this to process I-765s
    - Automatic EAD extension upon filing of renewal. There are a number of visa categories (i.e., L-2, H-4, DACA) that do not receive an extension of work authorization for renewals when filed in a timely manner. Particularly because of the onerous biometrics requirements and case processing times, even if an individual files at the earliest available date, usually 180 days in advance, there is still no guarantee that there will not be gaps in employment authorization. In late January 2017, the Obama administration extended this automatic extension to several categories and it would be beneficial to have it further expanded (https://www.uscis.gov/working-in-the-united-states/information-for-employers-and-employees/automatic-employment-authorization-document-ead-extension).
- Issue RFEs and NOIDs more judiciously
    - During the last administration, in part as a result of USCIS pivoting away from customer service and toward an enforcement mindset, the rate of issuance of RFEs and NOIDs increased dramatically. Often, the RFEs received sought information or evidence that had already been provided, or that was unnecessary to establish eligibility. USCIS should review its policies for issuance of RFEs and NOIDs in order to conserve agency resources.
- Recognize that courier services are imperfect and adjust practices accordingly
    - Many applicants for benefits run into a number of issues with delivery of items to and from USCIS. This impacts both the initial delivery of the application to USCIS as well as correspondence sent from USCIS to the applicant. One example is that USCIS will deny applications received just one day after the timely-filed deadline, even when the delay of the application was due to the courier, sometimes even due to circumstances beyond the courier's control, such as weather disturbances or equipment malfunction. USCIS should take a more reasonable approach to reconsider those applications denied due to courier anomalies, so long as the delay can be documented and proof can be supplied that the application was mailed before the timely-filed deadline expired. On the other side of the process, many items sent from USCIS to the applicant get "lost" by USPS or are delivered to the wrong address. For I-766 Employment Authorization Documents specifically, delivery errors can create a major burden and barrier for the applicant. Current practice of USCIS to replace a lost EAD card is to require a second filing of the I-765, which in turn requires a second filing fee, a second set of supporting documents, and a second round of adjudication. This is an unnecessary burden on the applicant and creates redundant work for USCIS. Therefore, in good faith, USCIS should reissue I-766 EAD cards lost in the mail free of charge or with a very nominal fee to cover printing and mailing costs (e.g.,$25) within 2 weeks of receiving the request. There should also be an easy mechanism to request this, preferably something that can be submitted online.
- Given the depth and breadth of changes made to USCIS processes and policy during the prior administration, one approach would be to issue a consolidated memo that

eliminates all memos issued during the Trump administration, retroactively. Though some of these changes are already underway, the approach has been piecemeal, and some change has come through policy directives, while other areas of change are due to court rulings. A consolidated memo would be a more thorough and comprehensive approach.

- The unlawful presence memo is an area of particular concern for higher education. Currently, there is a nationwide injunction on the guidance, but DHS could save time and money by dropping their opposition to this court case and rescinding the final guidance. This would obviate the need for USCIS to make unlawful presence adjudications in the future of actions taken in good faith by international students and scholars.

Unintended Consequences

- Increased complication of processes and forms makes it more likely that applicants will need to hire attorneys for what used to be fairly straightforward applications. This increases expense and slows processes down.
- Slow processing of applications means that fees sit with unopened applications (USCIS could use that money) and applicants endure uncertainty (wondering whether the application was received).
  - F-1s sometimes receive rejections on a technicality, and by the time they are informed, it's beyond the time when they're eligible to re-file.
  - Many processes not directly related to immigration rely upon receipt notices (e.g., employment, drivers' licenses). Slow and unreliable processing of applications means upheaval, even for people who have filed in a timely manner.
- Backlogs create additional costs for clients who have to renew their work authorization while awaiting a benefit adjudication. Backlogs also contribute to increased stress and concern for those who are awaiting news regarding their immigration status, and increased work for DSOs/ROs and immigration attorneys who work to reassure anxious clients.

I appreciate that USCIS is seeking input from the people who have been most impacted by the current state of operations at USCIS. Thousands of comments are being submitted, many of which contain concrete, specific actions that USCIS can take in order to minimize the barriers and burdens enacted through its past policies. We welcome these changes.

Sincerely,

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University of Minnesota
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Director, Immigration Response Team