

December 19, 2019

SUBMITTED TO ELECTRONIC DOCKET

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: USCIS Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, DHS Docket No. USCIS-2019-0010; RIN 1615-AC18

Dear Ms. Deshommes:

Thank you for the opportunity to comment on the U.S. Citizenship and Immigration Services (USCIS) proposed fee schedule, “U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements.” UnidosUS strongly opposes this proposed fee schedule which would have a devastating impact on the integrity of our legal immigration system, American families, and the nation. We urge USCIS to withdraw the provisions of the proposed fee schedule that target low-income immigrant and Latino families, and instead work to ensure that existing customer-generated resources are maximized to ensure that the integration of immigrants into the American fabric remains affordable and accessible.

Since 1968, UnidosUS—formerly known as the National Council of La Raza—has been committed to building a stronger America by creating opportunities for Latinos. In this rich 50-year history, UnidosUS has remained a trusted nonpartisan voice for Latinos, serving the community through research, policy analysis, and state and national advocacy. We also work closely with a network of nearly 300 community-based organizations in 37 states, the District of Columbia, and Puerto Rico to serve our community in a variety of areas, including civil rights and immigration, education, and health. This proposed fee schedule frustrates our immigrant integration goals, undermines the integrity of our legal immigration system established under our laws, and would inflict significant harm on our communities.

USCIS fails to provide any meaningful evidence that the changes it proposes would relieve case processing delays or otherwise improve services. UnidosUS notes that since 2010, USCIS has increased filing fees by weighted averages of 10% and 21% but has not achieved any associated improvement in processing times, backlogs, or customer service. Indeed, during that same

period, USCIS's backlog increased by more than 6,000% and its overall average case processing time increased 91% between 2014 and 2018. The purported "shortfalls" identified in the proposed fee schedule are the direct result of USCIS's poor policy and organizational choices. This mismanagement should not be shifted onto the backs of hardworking applicants and their families.

UnidosUS opposes the many ways in which the proposed changes will impact UnidosUS and harm our Affiliate Network. The following examples illustrate our opposition to the changes but are not exhaustive. Omission of any proposed change from this comment should not be interpreted as tacit approval. UnidosUS opposes all aspects of the proposed fee schedule that would create and/or exacerbate barriers to immigration benefits for qualifying low-income immigrants.

A. Naturalization Fees Should Be Affordable to Advance Our Shared Interest of Promoting the Social, Civic, and Economic Integration of Immigrants.

When it comes to immigration policy, Americans consistently rate immigrant integration as a top priority. UnidosUS and its Affiliate Network have worked diligently for more than 50 years to foster and advance a cohesive national fabric. Every day, our Affiliates and community partners provide services—such as civics and English classes—to facilitate immigrant integration in communities across the country. Eighty percent of Latinos in the U.S. are American citizens, the majority of whom were born in the U.S. (roughly two-thirds of all Latinos are native-born citizens).¹ Even though the portion of Latinos who become American citizens via naturalization is small compared to the overall Hispanic population, it is not an insignificant number. Based on the most recent data available, roughly 300,000 lawful permanent residents of Hispanic origin take the oath of citizenship per year, on average (nearly 40% of annual naturalizations).² UnidosUS has an extensive record of advocacy and programs focused on eliminating barriers to naturalization, and with more than 50 years of experience we have found that one of the most important ways to accelerate immigrant integration is to ensure that residents who have an existing pathway to citizenship take the necessary steps to naturalize.³ Research even suggests that the earlier this can happen, the greater the benefit to society.⁴

UnidosUS opposes the proposed fee schedule that would increase the filing fee for naturalization from \$640 to \$1,170, an 83% increase. This substantial increase would make naturalization less accessible for low-income Latino and immigrant families, the majority of whom have U.S.-born children. The benefits of naturalization cannot be overstated, whether at the individual, community, or national level. Affordable naturalization application fees are essential to protecting and promoting these shared benefits. In the words of our colleagues at the Catholic Legal Immigration Network (CLINIC), "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."⁵ Additionally, a report by UnidosUS found that Latinos

who are naturalized citizens had higher levels of financial engagement than those who had not yet become citizens.⁶ According to UnidosUS research, citizenship is a household asset. Naturalized citizens were much more likely to have basic financial accounts, earn higher incomes, and put away savings, even when compared to documented immigrants who had not yet naturalized. This difference is highlighted in rates of the unbanked for naturalized and non-naturalized immigrants. Naturalized survey participants had an unbanked rate of 10%, compared to documented but non-naturalized immigrants, who had an unbanked rate of 34%. These data suggest that the differences in banking experiences and capability among immigrants cannot be attributed to legal or documentation status alone, and that the step from permanent residency to citizenship opens up additional important doors for immigrants. Citizenship is an increasingly necessary precondition for financial stability and economic mobility for immigrant families. Assisting greater numbers of eligible immigrants to achieve citizenship could increase financial opportunities, but the proposed fee schedule would erase that potential.

In combination with the elimination of the fee waiver, the fee increases for naturalization would make citizenship unattainable for low-income immigrants. At a full-time minimum wage job, the application fee alone would cost almost two month's wages, excluding rent and other considerations. The proposed fee increase would make naturalization prohibitive to many, while also providing fertile ground for financial predators to take advantage of immigrants' needs for cash to cover these expenses. High-cost lending to low-income immigrants is a well-documented problem that can threaten families' economic stability.

Approximately nine million lawful permanent residents, or LPRs, are eligible to naturalize but have not yet applied.⁷ Becoming U.S. citizens would unleash significant benefits to their communities and our nation. A study by the University of Southern California found that citizenship alone can boost individual earnings by 8% to 11%, leading to a potential \$21–45 billion increase in cumulative earnings over ten years which will have ripple effects on the national economy.⁸ Naturalized citizens earn more, are more likely to pursue higher education, and have greater homeownership than noncitizens.⁹ Making citizenship unaffordable defers these tremendous economic gains to our country.

Congress expects USCIS to keep the pathway to citizenship affordable and accessible; accordingly, 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. This proposed fee schedule would abandon that historical 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.

B. Eliminating the Current Fee Waivers for All Current Categories Is Counterproductive and Further Frustrates the Goal of Integrating Immigrants into the American Tapestry.

UnidosUS opposes the fee schedule proposal 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 to many members of the communities that UnidosUS and our Affiliate Network serve. Fee waivers help families improve their stability, financially support themselves, and fully integrate into their communities. Because of the benefits of naturalization—one of the form types most frequently associated with fee waiver requests—Congress has called on USCIS to keep the pathway to citizenship affordable and accessible. 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.” Eliminating the fee waiver and increasing application fees will ripen the environment for predatory providers such as *notarios* and other unauthorized and unqualified individuals to target immigrants. USCIS’s proposed elimination of filing fee waivers would severely undermine congressional intent and result in considerable harm to new American families and the nation.

Moreover, UnidosUS notes that among the proposed changes are methods of fee payment, which would become variable by application form type, explained only in the form’s instructions. This would allow USCIS to prohibit the use of certain types of payment, such as cashier’s checks or money orders, for certain applications or petitions in favor of other methods of payment, such as online payments. Not only would changing the types of acceptable payment make the already confusing forms even more byzantine, this proposed limitation would also compound hardships to many low-income Latino and immigrant applicants and petitioners. Many families do not have access to assets such as reliable internet access, U.S. bank accounts, and well-established credit scores; to assume as much biases the application process in favor of higher-income applicants. In addition to opposing the elimination of the fee waiver, we must also insist that USCIS continue to accept cashier’s checks and money orders as methods of payment for all applications and petitions.

We also note that these proposed changes would significantly undercut the mission of many UnidosUS Affiliates. There are nearly 50 UnidosUS Affiliates who are recognized by the U.S. Department of Justice to provide immigration legal services. The private bar alone cannot handle the demand for immigration legal services, and many immigrants cannot afford an attorney, therefore high-quality, low-cost immigration legal service providers are essential to assisting low-income immigrants in understanding the eligibility requirements and completing immigration applications. UnidosUS Affiliates and other nonprofit legal service providers are critical to combating *notario* fraud and unscrupulous scam artists who prey on immigrants. Based on a small sample of UnidosUS Affiliates providing immigration legal services, we estimate that more than two-thirds of the naturalization applications they complete for low-income clients include a fee waiver or a reduced fee application. Some UnidosUS Affiliates have philanthropic and government funding that provides some financial support for their organizations, and there are deliverables often associated with this funding. In order to meet

the funding agreements, Affiliates must complete a set number of applications, and if there is a sharp decrease in the demand for applications to be completed as we would anticipate with the proposed fee increase and elimination of the fee waiver, this would significantly impact the sustainability of these legal service providers.

C. USCIS's Proposal to Transfer Applicant Fees to ICE Is Improper and Circumvents the Legislative Process.

UnidosUS vehemently opposes the use of applicant fees for immigration enforcement purposes. The proposed fee schedule seeks to transfer \$415.2 million in applicant fees held in the Immigration Examinations Fee Account (IEFA) over two years to Immigration and Customs Enforcement (ICE) for enforcement purposes, and the subsequent Federal Register notice published on December 9, 2019 amends the ICE transfer amount and makes it unclear what the proposed fee levels would ultimately be. Congress codified in the Immigration and Nationality Act (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 now 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 also find it difficult to avoid the conclusion that this is an attempt to circumvent the legislative process, and specifically Congress's refusal to appropriate a similar request contained in the Administration's most recent budget request. UnidosUS denounces this proposed change and views it as wholly improper for USCIS to accept payments from immigrants intended for adjudication of their immigration benefits only to redirect those funds to be used for enforcement against their communities.

Beyond disregarding lawful congressional oversight of the budgetary process, USCIS's decision to transfer such a large sum to ICE is also illogical. On November 12, UnidosUS joined partner organizations in asking USCIS for additional time to review and comment on the proposed fee changes, as 30 days is an unusually expedited timeline for such a broad and complex rule. On November 15, then-acting Assistant Secretary Ken Cuccinelli responded that providing any additional time to the public was impossible because the "financial situation at USCIS is dire."¹⁰ If USCIS's finances are indeed as dire as Mr. Cuccinelli proposes, it is paradoxical that the agency could also have surplus funds to share with ICE, even if it were to raise fees. The premise insults the intelligence of congressional appropriators and the American public.

D. USCIS Must Not Use Bureaucratic Process to Stymie the Goals of Legal Immigration.

UnidosUS calls on USCIS to withdraw the fee increase for the Provisional Waiver and urges the agency to keep Adjustment of Status Applications bundled and affordable. With respect to the former, USCIS is proposing an increase to the Form I-601A Provisional Unlawful Presence Waiver filing fee from the current cost of \$630 to \$960—a 52% increase. 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. The steep increase and the elimination of fee waivers would discourage individuals from consular processing and undermine the purpose of the provisional waiver. We note that in many instances these fees are in addition to other fees for related petitions and applications, which USCIS is also proposing to increase.

UnidosUS also opposes USCIS's plan to 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, and for good reason. 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% 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.

The impact of these change would disproportionately impact Latino families. Based on the latest USCIS data available, nearly half of the people admitted as green card holders who were the immediate relatives of U.S. citizens in 2017 (slightly more than 210,000 people) were from Hispanic-origin countries.¹¹ These are the parents, spouses, and siblings of American families in Latino communities. This proposed rule could have a detrimental impact on our legal immigration system by undercutting one of its essential cornerstones: family unity. If implemented, millions of families, including those of mixed immigration status living in the U.S., would find it much more difficult to apply for and obtain lawful permanent residency. Children would pay the steepest price of a policy that undercuts family unity. By most estimates, at least 5.2 million U.S. citizen children have one or more undocumented parents;¹² one quarter of these children are Hispanic.¹³

The National Academy of Sciences outlines all of the ways in which preventing undocumented parents from attaining legal status harms their U.S. citizen children, which, in addition to family destabilization and higher rates of poverty, include poor housing conditions, reduced educational outcomes, diminished life chances, higher rates of anxiety and depression, psychological trauma, and impaired cognitive development.¹⁴ What is more, all of these “deficits are intergenerationally transmitted to children,”¹⁵ meaning that should the government proceed with the proposed fee schedule changes, it will willingly promulgate a policy known to actively harm low-income U.S. citizen children and, in turn, *their* future children. This is antithetical to the congressional mandate that founded the Department of Homeland Security, which charges the agency to ensure that the overall safety and security of the United States is not diminished by activities aimed at securing the homeland.¹⁶ The rule also betrays the agency’s mission to safeguard the American people, our homeland, and our values,¹⁷ for surely no American could value intentionally harming an American child.

E. USCIS Should Not Impose a Renewal Fee for DACA.

UnidosUS opposes changes to the fee structure for Deferred Action for Childhood Arrivals (DACA) renewals. USCIS proposes to establish a new, additional \$275 fee for Form I-821D, which would raise the total cost for DACA renewal to \$765. This 55% increase would create a significant barrier to accessing protection from deportation and work authorization that young immigrants need for their family’s economic stability and well-being. Most DACA requesters are, by definition, young people who often struggle to afford the existing DACA request fee. Of the approximately 660,880 active DACA recipients reported on June 30, 2019, approximately 544,180 are age 30 or younger, and 112,160 of that number are 15 to 20 years old. In a 2019 survey of DACA recipients, 89% of respondents indicated that they were employed and had increases in their buying power, resulting in added revenue for states on top of the combined \$8.8 billion in federal, state, and local taxes paid annually by households with DACA recipients.¹⁸

Maintaining current fee levels for the I-821D form allows these young people to continue 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—by some estimates at least 250,000 American-born U.S. citizen children have a parent with DACA status¹⁹—but it also harms the U.S. economy by increasing the financial burden on its participants.

We urge USCIS to withdraw the provisions of the proposed fee schedule that target low-income families. USCIS has not efficiently used the filing fees that applicants have already paid to USCIS, and these customers must not be expected to bear a significant increase in fees, especially absent improvement in processing times, backlogs, and customer service. Perhaps more importantly, our government would be suppressing immigrant integration and, in turn, the social and economic benefits of integration by making it harder and more expensive to apply for immigration status and citizenship.

Should you have any questions regarding these comments, please contact Carlos Guevara, Senior Immigration Policy Advisor, at cguevara@unidosus.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Rodriguez', with a stylized flourish at the end.

Eric Rodriguez
Vice President, Policy and Advocacy
UnidosUS

Endnotes

¹ UnidosUS calculations using U.S. Census Bureau, “2018 American Community Survey 1-Year Estimates,” *American Community Survey*, data.census.gov (accessed October 21, 2019).

² Office of Immigration Statistics, “Yearbook of Immigration Statistics 2017, Table 21,” U.S. Department of Homeland Security, September 12, 2019, <https://www.dhs.gov/immigration-statistics/yearbook/2017> (accessed December 4, 2019).

³ Victoria Benner, Samantha Vargas Poppe, Charles Kamasaki, *Making Citizenship Affordable for All* (Washington, DC: UnidosUS, 2016),

http://publications.unidosus.org/bitstream/handle/123456789/1572/ib28_naturalizationfee.pdf (accessed December 13, 2019); Janis Bowdler, Lindsay Daniels, and Marisabel Torres, *Affording Citizenship and Securing a Sound Financial Future* (Washington, DC: UnidosUS, 2012),

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⁴ Hanna Kozłowska, “The Economy Benefits When Immigrants Become Citizens,” *The Atlantic*, December 23, 2015, <https://www.theatlantic.com/politics/archive/2015/12/the-economy-benefits-when-immigrants-become-citizens/433692/> (accessed December 5, 2019).

⁵ Jeff Chenoweth and Laura Burdick, “A More Perfect Union: A National Citizenship Plan,” *Catholic Legal Immigration Network*, <https://cliniclegal.org/resources/guides-reports-publications/more-perfect-union-national-citizenship-plan> (accessed December 4, 2019).

⁶ Janis Bowdler, Lindsay Daniels, and Marisabel Torres, *Affording Citizenship and Securing a Sound Financial Future* (Washington, DC: UnidosUS, 2012),

http://www.nclr.org/images/uploads/publications/citizenship_financial_barriers_92812.pdf (accessed December 13, 2019).

⁷ Robert Warren and Donald Kerwin, “The US Eligible-to-Naturalize Population: Detailed Social and Economic Characteristics,” *Journal on Migration and Human Security* 3 (2015),306,

<https://www.immigrationresearch.org/system/files/54-172-4-PB.pdf> (accessed December 5, 2019).

⁸ Manuel Pastor and Justin Scoggins, *Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy*, USC Center for the Study of Immigrant Integration, December 2012,

<https://dornsife.usc.edu/csii/citizen-gain/> (accessed December 13, 2019).

⁹ Maria E. Enchautegui and Linda Giannarelli, *The Economic Impact of Naturalization on Immigrants and Cities*, Urban Institute, December 2015, https://www.urban.org/research/publication/economic-impact-naturalization-immigrants-and-cities/view/full_report (accessed December 13, 2019).

¹⁰ Ken Cuccinelli II, *USCIS Acting Director Ken Cuccinelli to CLINIC Director Jill Marie Bussey, November 15, 2019*.

Letter. Catholic Legal Immigration Network, Inc., <https://cliniclegal.org/sites/default/files/resources/2019-1203-uscis-response-to-request-for-60-day-comment.pdf> (accessed December 5, 2019).

¹¹ DHS Office of Immigration Statistics, Yearbook, 2017.

¹² National Academy of Sciences, “Legal Status and Immigrant Integration,” in *The Integration of Immigrants into American Society*, 2015, <https://www.nap.edu/read/21746/chapter/1#ii> (accessed December 5, 2019).

¹³ Wyatt Clarke, Kimberly Turner, Lina Guzman, “One Quarter of Hispanic Children in the United States Have an Unauthorized Immigrant Parent,” National Research Center on Hispanic Children and Families, October 2017, <https://www.hispanicresearchcenter.org/research-resources/one-quarter-of-hispanic-children-in-the-united-states-have-an-unauthorized-immigrant-parent/> (accessed December 18, 2019).

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¹⁴ National Academy of Sciences, *Integration of Immigrants*, 2015.

¹⁵ Ibid.

¹⁶ *Homeland Security Act (HSA) of 2002*, Public Law 107–296, 116 Stat. 2135, 107th Cong., (November 25, 2002), <https://www.govinfo.gov/content/pkg/STATUTE-116/pdf/STATUTE-116-Pg2135.pdf#page=1> (accessed December 5, 2019).

¹⁷ U.S. Department of Homeland Security, “Mission,” <https://www.dhs.gov/mission> (accessed December 5, 2019).

¹⁸ Tom Wong, Sanaa Abrar, Claudia Flores, et al., “DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November,” Center for American Progress, September 19, 2019, <https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/> (accessed December 13, 2019).

¹⁹ Nicole Prchal Svajlenka, “What We Know About DACA Recipients in the United States,” Center for American Progress, September 5, 2019, <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/> (accessed December 4, 2019).