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Submitted via http://www.regulations.gov

Re: Executive Office for Immigration Review, Department of Justice, Notice of Proposed Rulemaking: *Executive Office for Immigration Review; Fee Review* (EOIR Docket No. 18-0101)

Dear Ms. Reid:

The American Immigration Council (Council) and the American Immigration Lawyers Association (AILA) submit the following comments in response to the above-referenced Executive Office for Immigration Review (EOIR) proposed rule, EOIR Docket No. 18-0101, *EOIR; Fee Review*, 85 Fed. Reg. 11866 (Feb. 28, 2020).

The Council is a non-profit organization established to increase public understanding of immigration law and policy, advocate for the just and fair administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. The Council's legal department provides technical and strategic assistance to others litigating before the immigration courts and has a direct interest in ensuring that the immigration courts remain accessible to noncitizens.

Established in 1946, AILA is a voluntary bar association of more than 15,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and naturalization and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws.

Individuals in proceedings before EOIR have the statutory and/or regulatory right to pursue relief from removal, administrative appeals to the Board of Immigration Appeals (BIA), and motions

to reopen or reconsider previous determinations. The meaningful ability to file such applications, appeals, and motions is integral to ensuring equitable access to the immigration courts and "proper application of the law as it pertains to the statutory right to appeal or apply for certain forms of relief," both of which EOIR recognizes are in the public interest. *See EOIR; Fee Review*, 85 Fed. Reg. at 11869, 11870. Through the notice of proposed rulemaking, EOIR seeks to excessively increase the fees for accessing important forms of relief and procedural protections. Based on our expertise and experience, the proposed fee increases fail to account for several significant factors and, if instituted, will have a substantial negative impact on the ability of noncitizens and U.S. citizens perceived to be noncitizens to access immigration courts. We submit the following comments in opposition to the proposed fee increases and, for the reasons stated below, urge EOIR to withdraw the proposed rule.

I. The Proposed Fees Are Exorbitant.

EOIR has proposed across-the-board increases in fees for applications, appeals, and motions. This includes 300% increases for applications for cancellation of removal and suspension of deportation, and nearly 900% increases for notices of appeals, motions to reopen, and motions to reconsider to the BIA. *EOIR; Fee Review*, 85 Fed. Reg. at 11870-71. Those filings would now range from $305 to $975. *Id.* These fees are excessive and could, in effect, create a wealth test for full participation in EOIR proceedings.

The proposed fees would put the effected applications, appeals, and motions out of reach for many individuals. The Federal Reserve reports that 40% of all Americans would struggle to pay an unexpected $400 bill. *See* Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2017* 2 (May 2018), https://tinyurl.com/yclay38c. The agency's proposal also stands in stark contrast to comparable fees charged by other agencies and federal courts. The proposed fee for an appeal to the BIA is nearly double the cost of docketing an appeal before a federal circuit court and over twice as high as the fees for filing an immigration-related complaint. *See* U.S. Courts, *Court of Appeals Miscellaneous Fee Schedule* (Oct. 1, 2019), https://tinyurl.com/umxugn5 ($500 docketing fee for appeals before the federal courts of appeal); *see, e.g.*, U.S. District Court for the District of Columbia, *Fee Schedule*, https://www.dcd.uscourts.gov/fee-schedule (last visited Mar. 24, 2020) ($400 docketing fee for complaint before the federal district court). Unlike the heavy fees here, a petition for writ of habeas corpus in federal court is only $5 and there is no cost for any level of administrative review of the denial of Social Security benefits. *See* 28 U.S.C. § 1914(a) (establishing $5 filing fee for writ of habeas corpus); Social Security Administration, *The Appeals Process*, Publication No. 05-10041 (Jan. 2018), https://www.ssa.gov/pubs/EN-05-10041.pdf (describing the various levels of administrative review and listing no cost for review).

Furthermore, the proposed fees would be imposed on already vulnerable individuals fighting deportation. That noncitizens in removal proceedings are particularly likely to struggle with the proposed fees is evidenced by the fact that they already struggle to retain counsel to represent them in those proceedings. *See* TRAC Immigration, *Details on Deportation Proceedings in Immigration Court* (updated Feb. 2020), https://trac.syr.edu/phptools/immigration/nta/ (showing

over 1 million unrepresented individuals currently in removal proceedings).[1] Tight deadlines for filing motions and appeals compound these difficulties, forcing individuals to put together filing fees on a short timeline. *See, e.g.*, 8 U.S.C. § 1229a(c)(6)(B) (providing 30 days to file a motion to reconsider); 8 C.F.R. § 1003.38(b) (same, for a notice of appeal). For those in detention—many because they cannot afford to post bond—the fees are even more unreasonable. *See generally* Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. Pa. L. Rev. 1, 32–35 (2015) (reporting that only 14% of detained respondents obtained legal representation in part because "[d]etainees are not able to work and thus face obstacles to paying for private counsel").

Imposing such steep fees is inappropriate and unnecessary; the agency should maintain fees at their current level absent an indication that this vulnerable population facing deportation will still be able to access EOIR's services if fees are increased.

II. The Authorizing Statutes Do Not Justify These Exorbitant Fees.

Neither statute EOIR relies on as authority for the proposed fee increases—8 U.S.C. § 1356(m), (n) and 31 U.S.C. § 9701—justifies these excessive fees. Congress did not enact these statutes in order to require individuals to reimburse the government for the full cost of exercising statutory and regulatory rights in enforcement actions initiated by the government.

Section 1356(m) permits the agency to set fees "at a level that will ensure recovery of the full costs of providing" "adjudication and naturalization services," just as Section 9701 calls for each "service or thing of value . . . to be self-sustaining to the extent possible." The work for which the agency seeks recompense here—adjudicating appeals and motions and processing applications for relief from removal—is nothing like the government "services" Congress contemplated when it authorized the collection of fees.

Congress enacted Section 9701 to ensure that when federal agencies provide "services the benefit of which accrue wholly to special interests which derive therefrom the means of financial success" the cost is "borne by the beneficiaries." Comm. on Expenditures in the Exec. Dep'ts, *Fees for Special Services*, S. Rep. No. 81-2120, at 1351 (1950); *see also id.* at 1353 (noting that fees would be appropriate where a government service provides "a very tangible asset"); *id.* at 1349 (seeking to recoup costs of "services . . . render[ed] to special interests"); Comm. on

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[1] While immigrants, regardless of status, contribute billions annually in tax dollars, they are also more likely to be financially insecure. *See* Jessica Semega et al., United States Census Bureau, *Income and Poverty in the United States: 2018*, at 13 (Sept. 2019), https://www.census.gov/content/dam/Census/library/publications/2019/demo/p60-266.pdf (showing that the poverty rate for foreign-born noncitizens is 17.5% compared to 11.4% for the native-born population); *see also* Annette Bernhardt et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities* 42 (2009), https://s27147.pcdn.co/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf (reporting that foreign-born workers suffered minimum wage violations at nearly twice the rate of U.S.-born workers).

Appropriations, *Independent Offices Appropriation Bill, 1953*, H.R. Rep. No. 82-384, at 899 (1951) (discussing reimbursement for "services . . . render[ed] to special beneficiaries").

Fees for the applications, administrative appeals, and motions covered by the proposed rule were not among those "special interest" services Congress specifically identified. S. Rep. No. 81-2120, at 1352-58 (providing examples of covered services including permits for operating commercial radio stations, services which permit investment companies to deal in securities, permits to graze livestock in national forests, and publications by the Weather Bureau); *see also* Office of Management and Budget, *Circular No. A-25 Revised, Transmittal Memorandum #1, User Charges* (July 8, 1993), https://tinyurl.com/w9gtfh8. While Congress did consider fees associated with services provided by the former Immigration and Naturalization Service (INS), it made mention only of visa petitions and applications to adjust status. *See* S. Rep. No. 81-2120, at 1361. As such, Congress sought to charge individuals who *affirmatively* sought to gain something of value from the government. Congress certainly did not contemplate forcing noncitizens to pay for defending themselves from deportation in proceedings initiated by the government when it enacted Section 9701.

Nor does Section 1356(m) expressly expand the meaning of "services" to include the sort of agency work contemplated in the proposed rule. As originally enacted in 1988, Section 1356(m) merely created the Immigration Examinations Fee Account to hold "all adjudication fees" being collected by the Attorney General; it did not address the setting of fees. An Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1989 and for Other Purposes, Pub. L. No. 100–459, § 209(a), 102 Stat. 2186, 2203 (1988). In 1991, Congress added the language on which EOIR now relies—permitting the government to recoup the full cost of "adjudication and naturalization *services*." Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, Pub. L. No. 101–515, § 210(d), 104 Stat. 2101, 2121 (1990) (emphasis added). Notably, adjudication and naturalization services of *affirmative* benefits applications, like those originally offered by the INS and later transferred to the U.S. Citizenship and Immigration Services,[2] are entirely distinct from adjudication of *defensive* relief applications, administrative appeals, and motions.

Moreover, even assuming the proposed fees were tied to "services" within the scope of 8 U.S.C. § 1356(m) and 31 U.S.C. § 9701, neither statute *requires* fees which provide for the full recovery of government expense. *See* 8 U.S.C. § 1356(m) (noting that fees "*may* be set" to recover costs) (emphasis added); 31 U.S.C. § 9701(b) (listing cost to the government as one of several factors to consider).[3] Thus, at a minimum, the authorizing statutes do not require EOIR to drastically change its fees in order to more fully recoup the alleged costs of applications, appeals, and motions to the agency.

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[2] *See* 6 U.S.C. § 271(b) (transferring all adjudication functions, including "[a]djudications of immigrant visa petitions" and "[a]djudications of naturalization petitions").

[3] Notably, 8 U.S.C. § 1356(m) specifically contemplates that some services will be "provided without charge to asylum applicants or other immigrants."

III. EOIR Should Not Set Fees Solely Based on the Alleged Cost of Adjudicating Applications, Appeals, and Motions.

EOIR based the fee increases for applications, appeals, and motions set forth in the proposed changes to 8 C.F.R. § 1103.7(b) almost entirely on a non-public assessment of the alleged costs of processing and adjudicating those filings.[4] EOIR stated that the significant fee increases proposed are "based on a fee review conducted by EOIR"; that study is based solely on an accounting of "the cost to EOIR for each type of application, appeal, and motion for which EOIR levies a fee under 8 C.F.R. § 1103.7(b)." *EOIR; Fee Review*, 85 Fed. Reg. at 11866, 11869.[5] Absent, at a minimum, consideration of the ability of most individuals in immigration proceedings to pay the increased fees, the proposed changes will inhibit individuals' statutory and regulatory rights to seek relief from removal, to request reopening, reconsideration, or appeal, and to access judicial review. Therefore, the agency should maintain fees at their current levels.

A. The proposed fee increases will prohibit access to the applications, appeals, and motions at issue in the notice of proposed rulemaking, effectively denying individuals the right to meaningfully participate in proceedings before EOIR.

Setting fees that allow EOIR to recover the agency's alleged costs for relief from removal and procedural protections during enforcement proceedings is neither required by law nor in keeping with Congressional intent behind longstanding statutory authority for administrative agencies' fee setting. *See supra* Section II; *see also EOIR; Fee Review*, 85 Fed. Reg. at 11867 (noting that, per 31 U.S.C. § 9701, "fees must be 'fair'" and should also be based on "the public policy or interest served, and other relevant facts"); *id.* at 11868 (noting that fees previously were set "at less than full cost recovery recognizing long-standing public policy and the interest served by these processes") (quoting *Powers and Duties of Service Officers; Availability of Service Records*, 51 Fed. Reg. 39993, 39993 (Nov. 4, 1986)). Because of unique attributes of EOIR and the applications, appeals, and motions at issue in the notice of proposed rulemaking, EOIR should have taken a broader view of the factors to consider when setting its fees.

First, the fees at issue in the notice of proposed rulemaking relate to proceedings before the immigration court and the BIA in which individuals have no choice but to participate. The

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[4] As discussed *infra* at Section IV, the Council is seeking information about the studies that formed the basis for EOIR's proposed fee increases and for the current fee rates on an expedited basis, but the agency declined to process the Freedom of Information Act (FOIA) request prior to the deadline for submitting these comments. *See* Attachment A (March 5, 2020 FOIA request seeking information about EOIR's 2018 and 1984 fee studies); Attachment B (March 13, 2020 EOIR response declining to expedite processing of the request).

[5] The notice of proposed rulemaking suggests the proposed fee increases "also account[] for the public interest" because the cost assessment did not include all overhead and non-salary benefit costs. *Id*. at 11869; *see also id*. at 11870 (acknowledging that the fees are for filings including "statutorily provided relief and important procedural tools that serve the public interest" and also provide value to DHS). However, the agency's mere statement does not demonstrate that the agency considered any factor beyond cost.

applications, appeals, and motions at issue arise in the context of enforcement actions initiated by the government. To the extent that individuals take affirmative steps to submit the relevant filings, in doing so they are choosing not to simply submit, without defense, to government efforts to deport them. Absent doing so, they face permanent separation from family, community, livelihood, and, in some cases, persecution or even death. *See, e.g.*, *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922) (noting that deportation "may result . . . in loss of both property and life, or of all that makes life worth living"); *INS v. Cardoza-Fonseca*, 480 U.S. 421, 449 (1987) ("Deportation is always a harsh measure; it is all the more replete with danger when the [noncitizen] makes a claim that he or she will be subject to death or persecution if forced to return to his or her home country.").

Additionally, individuals have a statutory right to seek many of the specific applications, appeals, and motions at issue in the notice of proposed rulemaking. *See, e.g.*, 8 U.S.C. §§ 1229b (cancellation of removal), 1229a(c)(5) (administrative appeals of immigration judge decisions), 1101(a)(47)(B) (same); 1229a(c)(6) (motions to reconsider), 1229a(c)(7) (motions to reopen); 8 U.S.C. § 1254(a) (1995) (suspension of deportation). Exorbitantly raising fees to effectively prohibit individuals from accessing relief and procedural protections to which they are statutorily entitled infringes upon these rights.

Furthermore, absent the ability to file, at a minimum, administrative appeals, individuals subject to EOIR's fees will be denied not only important safeguards before EOIR, but also access to judicial review over their removal orders by the federal courts of appeals. *See, e.g.*, 8 U.S.C. §§ 1252(a) (permitting judicial review over final orders of removal), 1101(a)(47)(B) (defining final removal to require an administrative appeal to the BIA), 1252(d)(1) (requiring individuals in removal proceedings to file BIA appeals in order to exhaust administrative remedies). Raising expenses so that individuals cannot take the steps necessary to obtain judicial review of removal orders impacts both individuals and the legal system as a whole. *Cf. INS v. St. Cyr*, 533 U.S. 289, 298 (2001) (noting "the strong presumption in favor of judicial review of administrative action"); *Guerrero-Lasprilla v. Barr*, 589 U.S. ___, No. 18-1015, 2020 WL 1325822, at *5 (Mar. 23, 2020) (same).

Finally, setting fees exclusively based on alleged cost to the agency is especially inappropriate in the context of EOIR, which the notice of proposed rulemaking acknowledges "is an appropriated agency" and thus is not dependent on fees for funding. *See id*. at 11870. EOIR does not need to significantly increase fees without regard for the impact on individuals in order to receive funding.

B. EOIR must consider additional factors, including individuals' ability to pay increased filing fees.

Because the applications, appeals, and motions at issue play an important role in safeguarding individuals' rights and access to courts, EOIR must consider additional factors when proposing changes to fees. Specifically, the agency should have determined whether changes to the fees would prevent individuals from filing applications, appeals, and motions. At a minimum, the agency should have addressed the ability to pay filing fees of individuals currently making the relevant filings and set fees at a level that most are able to pay.

The notice of proposed rulemaking suggests that specific individuals' or entities' ability to pay should not be relevant to agency fee setting processes. *EOIR; Fee Review*, 85 Fed. Reg. at 11870 n.14.[6] However, the issue here—whether the uniform fee charged to every person subject to it should incorporate consideration of the overall ability to pay in order to ensure access to statutory rights—is entirely distinct. Where fees have an impact on individuals' ability to exercise their statutory and regulatory rights, agencies necessarily must consider ability to pay to avoid infringing upon those rights. Otherwise, the fate of individuals in proceedings—who may already be deeply disadvantaged due to lack of legal representation and/or being detained—will hinge on their financial resources.[7]

Failure to consider individuals' ability to pay would also provide DHS with an obvious and unfair advantage during immigration proceedings because DHS is not required to pay for filing appeals and motions. As such, it would be contrary to Supreme Court and agency precedent, which caution against allowing one party to unilaterally control adversarial proceedings. *See, e.g.*, *Boumediene v. Bush*, 553 U.S. 723, 765 (2008) (rejecting argument that would allow "the political branches to govern without legal constraint"); *Matter of Diaz-Garcia*, 25 I&N Dec. 794, 796 (BIA 2012) (rejecting interpretation that would allow DHS "to unilaterally deprive the [BIA] of further jurisdiction" over a case).

IV. EOIR Has Refused to Make Public the Spring 2018 Study Which Allegedly Provides a Basis for Increasing Fees.

The proposed rule indicates that EOIR based the proposed fee increases on a costs-based study conducted in the spring of 2018 (hereinafter, Spring 2018 Study). *EOIR; Fee Review*, 85 Fed. Reg. at 11869. It describes the Spring 2018 Study, but the study itself is not publicly available. *Id.* The Council filed a FOIA request for the Spring 2018 Study and other information relevant to assessing the study on an expedited schedule. *See supra* n.4. Troublingly, EOIR denied a request for expedited processing of that request, which could have allowed for public access to the study during the comment period. *See* Attachment B (March 13, 2020 EOIR response declining to expedite processing). Without access to the Spring 2018 Study, interested parties cannot meaningfully review EOIR's statements regarding the relationship between the study and the proposed increase in fees.[8] EOIR's failure to provide the public with any way to confirm or

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[6] Although the notice of proposed rulemaking states that "[a]n agency may . . . take such [ability to pay] into consideration if it is in the public interest," *id.*, there is no indication that the agency *did* consider ability to pay, either in the context of public interest or otherwise, and no information about what individuals filing applications, appeals, and motions with EOIR are able to pay.

[7] As discussed *infra* at Section VI, the EOIR's unreviewable and entirely discretionary fee waiver request process is an inadequate substitute for setting fees that most individuals in EOIR proceedings can afford.

[8] EOIR also failed to make public the study that formed the basis for its previous fee increase. *See EOIR; Fee Review*, 85 Fed. Reg at 11868 (discussing May 1984 study). As a result, commenters cannot assess whether the agency considered different factors in its previous fee

refute the agency's alleged need for the proposed fee increases is not in keeping with the requirement that interested persons receive notice and have a meaningfully opportunity to comment on proposed rulemaking. *See* 5 U.S.C. § 553.

Based on the limited information available in the proposed rule itself, however, the Spring 2018 Study does not sufficiently justify the proposed fee increases because it appears to only factor alleged processing costs into its conclusions regarding appropriate fees. *See supra* Section III. The proposed rule does not include analysis of factors besides cost, but instead simply states that the decision not to include additional overhead and non-salary benefits costs in determining the increased fees "also accounts for the public interest" weighing against substantially increased fees. *EOIR; Fee Review*, 85 Fed. Reg. at 11869. The proposed rule offers no meaningful explanation of how the agency balanced the potentially inaccurate value of overhead costs and non-salary benefits against the public interest in "ensuring that the immigration courts are accessible to [noncitizens] seeking relief" and in the forms and applications for relief at issue serving as "important procedural tools" that help "ensur[e] accurate administrative proceedings." *Id*. at 11870. Moreover, processing costs alone are not sufficient to justify the proposed fee increases, and the mere recognition of public interest factors weighing against exorbitant fee increases does not account for several other significant factors in determining the propriety of EOIR fees. *See supra* Section III.

V. The Proposed Fee Increases Fail to Account for the Additional Unjustified Impact on Asylum Applicants.

Under the proposed rule, EOIR provided that a new $50 fee will apply if an applicant files an application for asylum (Form I-589) in a removal proceeding before an immigration judge. *EOIR; Fee Review*, 85 Fed. Reg. at 11871-72. This new fee aligns with a proposed $50 fee increase for asylum applications filed with U.S. Citizenship and Immigration Services. *See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 84 Fed. Reg. 62280, 62318 (Nov. 14, 2019). This $50 fee marks the first time in history that the United States would charge to apply for asylum. *See id.* Were these fees to take effect, the United States would join only three of 147 other countries who also are signatories to the 1951 United Nations Convention Relating to the Status of Refugees (1951 Refugee Convention) or 1967 United Nations Protocol Relating to the Status of Refugees that charge to apply for asylum: Australia, Fiji, and Iran. *See id*. at 62319.

Charging a fee to apply for asylum is inconsistent with the international legal principle of *non-refoulement*, memorialized in the 1951 Refugee Convention and adopted by the United States in the 1980 Refugee Act, which prohibits a country from returning or expelling an individual to a country where he or she has a well-founded fear of persecution or torture. The 1980 Refugee Act adopts the principle of *non-refoulement*, in part, by providing asylum seekers certain procedural rights through a formal asylum process. *See* Refugee Act of 1980, Pub. L. No. 96-212, § 201(b),

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assessment, which resulted in "EOIR and INS set[ting] the fees for administrative appeals processes 'at less than full cost recovery recognizing long-standing public policy and the interest served by these processes.'" *Id*.

94 Stat. 102 (1980). Inherent in these procedural rights is an individual's ability to access that process through the immigration agencies and courts without undue impediments. *See, e.g.*, *Marincas v. Lewis*, 92 F.3d 195, 203 (3d Cir. 1996) ("The basic procedural rights Congress intended to provide asylum applicants . . . are particularly important because an applicant erroneously denied asylum could be subject to death or persecution if forced to return to his or her home country."). Mandating a $50 fee to apply for asylum will prohibit many asylum seekers from having their persecution and torture claims considered and undermine the purpose of the 1980 Refugee Act.

Moreover, in combination with the other proposed EOIR fee increases, the impact of the $50 application fee on asylum seekers is even more severe. Payment of a fee is not required if a motion to reopen or reconsider is "based exclusively on an application for relief that does not require a fee," 8 C.F.R. § 1003.8(a)(2)(ii), (iii), or if an appeal or motion is "filed under a law, regulation, or directive that specifically does not require a filing fee," 8 C.F.R. § 1003.8(a)(2)(viii). Before the proposed fee of $50, asylum applications did not require a filing fee, and so asylum seekers were not subject to the filing fees associated with motions to reopen or reconsider or administrative appeals. But under the proposed rule, in addition to the $50 application fee, asylum seekers will be required to pay $895 to file a motion to reopen or reconsider with the BIA and up to $975 to file an appeal of an immigration judge decision, *see EOIR; Fee Review*, 85 Fed. Reg. at 11871, unless they qualify for a fee waiver, *but see infra* Section VI.[9] If instituted, these proposed changes would compound the unreasonable impact of the proposed EOIR fee increases as asylum seekers' ability to pay such fees would be severely compromised. If appeals and motions to the BIA are cost-prohibitive, many asylum seekers will forgo their rights and face the grave risk of returning to their countries of origin where they face persecution and even death. As the Supreme Court has held, "there is a public interest in preventing [noncitizens] from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Nken v. Holder*, 556 U.S. 418, 436 (2009). The failure to assess the impact of the newly proposed fee on asylum applications in conjunction with the excessive proposed increases in fees for filing BIA motions and appeals threatens the public interest in preventing noncitizens from being wrongfully removed as immigration court decisions go unchallenged and untested.

VI. Discretionary Fee Waivers Are Not an Adequate Alternative to Reasonable Fees That Most Individuals Subject to Immigration Court Proceedings Are Able to Pay.

EOIR's notice of proposed rulemaking repeatedly asserts that the proposed fee increases "do[] not affect the ability of [noncitizens] to submit fee waiver requests . . . ." *EOIR; Fee Review*, 85 Fed. Reg. at 11866; *see also id.* at 11874 (noting that fee waivers are "possible" for the "more

[9] Moreover, DHS recently submitted proposed rules that would begin charging asylum seekers a $490 fee to apply for employment authorization and generally make it more difficult for asylum seekers to obtain employment authorization. *See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements*, 84 Fed. Reg. at 62320; *Asylum Application, Interview, and Employment Authorization for Applicants*, 84 Fed. Reg. 62374, 62375-76 (Nov. 14, 2019).

burdensome" fees). However, this statement is, at a minimum, misleading. The possibility of a discretionary fee waiver does not serve the same function as a reasonable fee that most individuals subject to EOIR proceedings can afford.

Paying the fee associated with a correctly filed application, appeal, or motion provides an individual with the opportunity as of right to have that filing adjudicated by the agency. Requesting a discretionary filing fee waiver, on the other hand, simply provides the adjudicator with the option of granting a fee waiver and then considering the merits of the underlying filing. *See* 8 C.F.R. §§ 1003.8(a)(3), 1003.24(d), 1103.7(c). These are fundamentally different. Although immigration judges *may* grant a fee waiver if individuals establish that they are unable to pay, the regulations do not require them to grant fee waivers even to an individual who has provided proof of inability to pay. *Id.*[10]

This is especially problematic given that, if EOIR denies a fee waiver request, the agency generally does not treat the underlying application, appeal, or motion as properly filed. *See* 8 C.F.R. §§ 1003.8(a)(3), 1003.24(d), 1103.7(c); *see also EOIR; Fee Review*, 85 Fed. Reg. at 11874 n.21 (stating if a waiver request is not granted, "the filing will not be deemed properly filed"). Although many of the filings for which individuals seek fee waivers have short timeframes for filing, the fee waiver regulations do not expressly toll the filing deadlines for the underlying appeals and motions. *Id.*; *see also* 8 U.S.C. § 1229a(c)(6)(B) (requiring motions to reconsider to be filed within 30 days of an immigration judge's decision); 8 C.F.R. § 1003.38(b) (requiring Form EOIR-26 to be filed within 30 days). Therefore, if an IJ or the BIA decides to deny someone's fee waiver request, that person may lose not only the opportunity to file without a fee, but also the right to have the underlying filing adjudicated and, subsequently, the opportunity for federal court review.

Furthermore, should EOIR increase its fees as proposed, the demand for fee waivers—and potentially the time it takes to adjudicate them—is likely to increase exponentially. As EOIR acknowledges, even at the current rates, more than one third of the fees the agency charged in FY2018 were waived due to individuals' inability to pay. *EOIR; Fee Review*, 85 Fed. Reg. at 11869 n.11. With significant fee increases, including of more than 800% for Form EOIR-26 and motions to reopen or reconsider before the BIA, the group of individuals who simply have no way to pay the fee necessarily will increase, and so IJs and the BIA will need to spend more of their time adjudicating fee waiver requests. This would waste administrative resources, at a time when the agency itself has expressed concern about significant backlogs in immigration court. *See, e.g.* Priscilla Alvarez, *Immigration Court Backlog Exceeds 1 Million Cases, Data Group Says*, CNN (Sep. 18, 2019), https://www.cnn.com/2019/09/18/politics/immigration-court-backlog/index.html. Further, the resulting delays in adjudicating waivers would also make it more likely that the agency prevents those whose fee waiver requests are denied from meeting filing deadlines for their underlying applications, appeals, and motions. It would be more

[10] Notably, despite requests to make information about the agency's adjudication of fee waivers public, the process remains largely hidden from public view. *See* Attachment A (March 5, 2020 FOIA request seeking information on EOIR's adjudication of fee waivers).

equitable—and more efficient—to set the filing fees at a level most can afford, rather than further burden the insufficient fee waiver request process.

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Finally, the Council and AILA note that EOIR failed to provide a sufficient period for interested parties to comment on the proposed fee increases. Under most circumstances, agencies must provide public comment periods of at least 60 days. *See, e.g.*, Exec. Order 12866, 58 Fed. Reg. 51735 (Oct. 4, 1993) (directing agencies generally to furnish "not less than 60 days" for public comment); Exec. Order 13563, 76 Fed. Reg. 3821 (Jan. 21, 2011) ("To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.") There is no evidence that in the present case 60 days is unfeasible or unlawful. Furthermore, a rushed notice and comment period is especially inappropriate currently, as the United States addresses the novel coronavirus, also known as COVID-19, which has been declared a global pandemic by the World Health Organization. The President has declared a national state of emergency due to COVID-19, several states have issued stay-at-home orders, and many interested in commenting on EOIR's notice of proposed rulemaking are facing unanticipated, urgent matters resulting from the disruption caused by the virus. Over 100 organizations, including the Council, called on EOIR to suspend the comment deadline due to this crisis, *see* Attachment C (March 23, 3020 request to freeze the comment deadline), but the agency failed to act on this request.

For these reasons, the Council and AILA urge EOIR to reject the fee increases for applications, appeals, and motions set forth in the proposed changes to 8 C.F.R. § 1103.7(b). Instead, we suggest that the agency maintain its current fees, including not requiring a fee for any Form I-589. Absent a more thorough review of *all* relevant factors, including individuals' ability to pay, any other course would obstruct access to relief and procedural protections before EOIR and, in some cases, to the federal courts.

Respectfully submitted,

Trina Realmuto
Kristin Macleod-Ball
Emma Winger
American Immigration Council
1318 Beacon Street, Suite 18
Brookline, MA 02446

Karolina Walters
American Immigration Council
1331 G Street NW, Suite 200
Washington, D.C. 20005

American Immigration Council

March 5, 2020

VIA ELECTRONIC MAIL

Freedom of Information Act Request
Executive Office for Immigration Review
Office of the General Counsel
ATTN: FOIA Service Center
5107 Leesburg Pike, Suite 1903
Falls Church, VA 22041
Email: EOIR.FOIARequests@usdoj.gov

RE: Freedom of Information Act ("FOIA") Request for information regarding adjudication of fee waivers, agency cost-related studies, and immigration court appeals

Dear Executive Office for Immigration Review FOIA Unit,

The American Immigration Council (the Council) submits this letter as a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.* The Council asks that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and for a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

Records Requested

1) The Council requests records related to the adjudication of requests for fee waivers for:

- Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge;
- Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer;
- Form EOIR-40, Application for Suspension of Deportation;
- Form EOIR-42A, Application for Cancellation of Removal for Certain Permanent Residents;
- Form EOIR-42B or Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents;
- Form EOIR-45, Notice of Appeal from a Decision of an Adjudicating Official in a Practitioner Disciplinary Case;
- Motion to reopen filed with an immigration court;
- Motion to reconsider filed with an immigration court;
- Motion to reopen filed with the Board of Immigration Appeals (BIA), and
- Motion to reconsider filed with the BIA.

Specifically, the Council requests disclosure of any and all records in the possession of the Executive Office for Immigration Review (EOIR), or its sub-offices, that reflect the following information regarding the adjudication of requests for fee waivers, for each type of waiver request described above:

a. The number of fee waiver requests filed in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date);
b. The number of fee waiver requests granted in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date);
c. The number of fee waiver requests denied in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date); and
d. The number of fee waiver requests filed in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date) that remain pending/unadjudicated.

For each category of information provided with regard to fee requests filed with an immigration court, please include information that reflects the location of the immigration court with which the request was filed.

For each category of information provided with regard to fee requests filed with the BIA, please include information that reflects the location of the immigration that heard the proceedings which are being appealed or which are the basis of the motion to reopen or reconsider.

2.) The Council requests the "comprehensive study using activity-based costing to determine the cost to EOIR for each type of application, appeal, and motion for which EOIR levies a fee under 8 CFR 1103.7(b)" conducted in Spring 2018 and referenced in EOIR's recent notice of proposed rulemaking (*Executive Office for Immigration Review; Fee Review*, 85 Fed. Reg. 11866, 11869 (Feb. 28, 2020)).

3.) The Council requests the study of the former Immigration and Naturalization Service (INS) of its "policies and practices for user charges" conducted in May 1984 and referenced in EOIR's recent notice of proposed rulemaking (*Executive Office for Immigration Review; Fee Review*, 85 Fed. Reg. 11866, 11868 (Feb. 28, 2020)) and in a 1986 INS proposed rule (*Powers and Duties of Service Officers; Availability of Service Records*, 51 Fed. Reg. 289 (Jan. 22, 1986)).

4.) The Council requests disclosure of any and all records in the possession of EOIR or its sub-offices that reflect the following information regarding EOIR receipts of Form EOIR-26:

a. The number of Forms EOIR-26 received in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date);
b. The number of Forms EOIR-26 filed by the U.S. Department of Homeland Security (DHS) received in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date); and
c. The number of Forms EOIR-26 filed by respondents received in fiscal year ("FY") 2015; FY 2016, FY 2017; FY 2018; FY 2019; and FY 2020 (to date).

Request for Expedited Processing

This request meets three independent criteria for expedited processing under the Department of Justice's (DOJ) regulations.

First, expedited processing is warranted because there is an "urgency to inform the public about an actual or alleged federal government activity" and the request is made by an organization "primarily

 ATTACHMENT A

engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). Given current circumstances, there is an urgent need to inform the public about EOIR's practices in adjudicating fee waiver requests and the bases for EOIR's current and proposed fees for relief, appeals, and motions filed with the immigration courts and the BIA. EOIR recently issued a notice of proposed rulemaking, announcing that it intends to increase the fees it charges to respondents in immigration proceedings. *See Executive Office for Immigration Review; Fee Review*, 85 Fed. Reg. 11866 (Feb. 28, 2020). These increases, which in some cases raise fees for critical filings in removal proceedings nearly 900%, will necessarily require more individuals to rely on fee waiver requests to EOIR in order to preserve their rights. The DOJ has requested comments from the public on the proposed rule by March 30, 2020. *See id*. Obtaining information about the bases for the proposed increases before that due date will be critical to ensure that the Council as well as other members of the public wishing to comment on the proposed rule have the necessary information to respond to EOIR's proposal. Similarly, timely providing information about EOIR's current fee waiver adjudication practices is needed to ensure that the Council and those members of the public are informed about the only process through which individuals may be able to pursue defenses to their removal if the fee increases go into effect.

The Council has the capacity, intent and demonstrated ability to disseminate the requested information to a broad cross-section of the public and is "primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 28 C.F.R. § 16.5(e)(1)(ii). The Council is a non-profit organization established to increase public understanding of immigration law and policy, advocate for the fair and just administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. The Council researches issues related to immigration and regularly provides information to leaders on Capitol Hill, the media, and the general public. Furthermore, the Council has synthesized and disseminated information from prior FOIA requests to facilitate the sharing of this information with a broad public audience.[1] Finally, the Council has regular contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media. Upon receipt of the records requested, the Council will review them carefully and disseminate educational or newsworthy information through these channels.

Second, expedited processing is required when a request involves "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." 28 C.F.R. § 16.5(e)(1)(iv). Already, there has been significant media coverage of DOJ's proposed fee increases for filings with the immigration courts and the BIA. *See, e.g.*, *Immigration Courts Seek Steep Fee Hikes for Appeals, Filings*, The Associated Press (Feb. 28, 2020); Priscilla Alvarez, *Trump Administration Looks to Triple Fees for Some Immigration Court Filings*, CNN (Feb. 27, 2020). The ongoing news coverage, which mentions the DOJ's claims that some individuals may be able to obtain waivers of the sharply increased fees based on need, demonstrates that the data requested here involves "a matter of widespread and exceptional media interest" as well as "questions about the government's integrity [regarding the cost of gaining access to the immigration

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[1] *See, e.g.*, Guillermo Cantor, et al., *Changing Patterns of Interior Immigration Enforcement in the United States, 2016-2018* (2019), *available at* https://www.americanimmigrationcouncil.org/research/interior-immigration-enforcement-united-states-2016-2018 (analyzing trends in interior enforcement based on data released in response to FOIA requests).

 ATTACHMENT A

courts] which affect public confidence." 28 C.F.R. § 16.5(e)(1)(iv).

Third, expedited processing is required when a request involves "[t]he loss of substantial due process rights . . . ." 28 C.F.R. § 16.5(e)(1)(iii). In this case, the request relates to EOIR's proposal for substantial increases to fees for immigration court and BIA filings, which the agency itself notes "represent important forms of relief and procedural tools for the parties in immigration proceedings" and determine whether "the immigration courts are accessible to [noncitizens] seeking relief" from removal. *See Executive Office for Immigration Review; Fee Review*, 85 Fed. Reg. 11866, 11867, 11870 (Feb. 28, 2020). To the extent that the increases go into effect, individuals who are unable to afford the increased fees or obtain a fee waiver will be unable to avail themselves of "important forms of relief and procedural tools," implicating their statutory and constitutional rights in removal proceedings. Therefore, this request seeks information to prevent the loss of substantial due process rights with respect to noncitizens' ability to access the immigration courts.

Finally, expedited processing in this case would not cause a substantial burden on the agency. EOIR tracks the statistical information that the Council seeks. *See, e.g.*, *id.* at 11869 n.9 (referring to data relating to the rates of fee waiver approvals). Furthermore, it appears that EOIR recently compiled many of the requested records in preparation for issuing the above referenced notice of proposed rulemaking. *Id.* at 11868, 11869-70, 11872-74 (discussing the 1984 and 2018 studies).

Request of Waiver of Fees

The Council asks that all fees associated with this FOIA request be waived. A waiver of all costs is warranted because disclosure of the information is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 28 C.F.R. §§ 16.10(k)(1), 701.18(d)(1)–(2) (providing that records should be furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in the commercial interest of the institution); *Judicial Watch v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003).

The Council has undertaken this work in the public interest and not for any private commercial interest. Information obtained through this request will be made publicly available, and it will be critical to inform the public, including individuals who may be subject to EOIR's filing fees or require a fee waiver, as well as their immigration attorneys, about EOIR's current practices and bases for setting filing fees. Accordingly, disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch*, 326 F.3d at 1312 ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers of noncommercial requesters") (internal citation and quotation omitted).

In the alternative, if a full fee waiver is not granted, the Council seeks all applicable reductions in fees pursuant to 28 C.F.R. §§ 16.10(k)(2), 701.18(d)(1). The Council further asks that, if no fee waiver is granted and the fees exceed $200.00, the agency contact the Council through the undersigned counsel, to obtain consent to incur additional fees.

Format

Please provide all data in a searchable, unrestricted Microsoft Excel format. Aggregate figures and keys or tools to interpret the data may be provided in a searchable Microsoft Word document.

Certification

The Council certifies that the foregoing is true and correct to the best of our knowledge. *See* 28 C.F.R. § 16.5(e)(3).

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We look forward to your response to our request for expedited processing within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding our request for expedited processing, we alternatively look forward to your reply to this request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

If you have any questions regarding this request, please contact Kristin Macleod-Ball at kmacleod-ball@immcouncil.org or (857) 305-3722. Please furnish copies of all applicable information to:

Kristin Macleod-Ball
American Immigration Council
1318 Beacon Street, Suite 18
Brookline, MA 02446
kmacleod-ball@immcouncil.org

Thank you for your timely cooperation.

Sincerely,

Kristin Macleod-Ball
American Immigration Council
1318 Beacon Street, Suite 18
Brookline, MA 02446
Tel: (857) 305-3722
kmacleod-ball@immcouncil.org

 ATTACHMENT A

U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2150
Falls Church, Virginia 22041

March 13, 2020

Kristin Macleod-Ball
American Immigration Council
1318 Beacon Street, Suite 18
Brookline, MA 02446

Re: FOIA 2020-23892

Dear Ms. Macleod-Ball,

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) in which you seek expedited processing for certain personnel files.

EOIR has received your request for expedited processing of your FOIA request. The FOIA regulations state that expedited treatment is granted if there is an exceptional need such as jeopardy to life or personal safety, a threatened loss of substantial due process rights, or an urgency to inform the public concerning actual or alleged federal Government activities.

Upon review of your FOIA request, it has been determined that you did not meet the threshold requirements for expedited treatment. Therefore, your request for expedited processing has been denied.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G Street NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIA STAR online portal by creating an account on the following web site: https://www.justice.gov/oip/submit-and-track-request. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you

submit your appeal by mail, both the letter and the envelope should be clearly marked “Freedom of Information Act Appeal.”

Sincerely,

Joseph Schaaf

Joseph R. Schaaf
Senior Counsel for Administrative Law

via email

March 23, 2020

Lauren Alder Reid
Assistant Director,
Office of Policy
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 2204529

Paul Ray, Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

RE: Request to freeze the comment deadline for EOIR Proposed Rule on Fees: EOIR Docket No. 18-0101 due to the COVID-19 pandemic

Dear Assistant Director Reid and Acting Administrator Ray:

We, the undersigned organizations, write to respectfully request that the Department of Justice's Executive Office for Immigration Review (EOIR) freeze the comment deadline on the above-referenced proposed rulemaking until the federal government has lifted the national emergency related to the COVID-19 pandemic.

The recent, world-wide emergence of the novel coronavirus has been declared a pandemic by the World Health Organization.[1] On March 13, 2020, President Trump declared a national emergency.[2] President Trump and governors throughout the country have urged Americans to work from home, and schools have closed around the country. At the same time, immigration procedures have been changing on a daily basis, forcing immigration practitioners to keep up and inform clients of this ever-changing landscape. Most stakeholders are currently working from home and are unable to access hard copies of resources or background materials they may need to fully comment on the proposed rule. For stakeholders who wish to include client stories or other anecdotes, it may not be possible to access physical client files or contact information. As stakeholders learn to perform their jobs remotely, in many instances while providing childcare and/or assisting children to engage in online learning, it is unreasonable to expect the public to submit comments to these sweeping changes by March 30.

[1] World Health Organization, *WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020*, https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020.

[2] White House, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Conference*, Mar. 13, 2020, https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-conference-3/.

On March 5, 2020, many stakeholders submitted a letter requesting EOIR extend the comment period on this proposed rule from 30 days to 60 days, urging EOIR to allow more time for comments given the far-reaching consequences of the proposed changes and that EOIR had not changed fees in three decades.[3] The organizations that signed that letter have not yet received a response.

The undersigned organizations reiterate the importance of stakeholders having ample time to carefully review the proposed rule and provide comprehensive feedback to the agency. It already would have been difficult to provide high-quality comments with only 30 days' notice. Now, with the added challenges posed by a novel virus that has upended normal life, it is unlikely that EOIR will receive the input from stakeholders that the Administrative Procedures Act requires for a rulemaking of this significance.

We thank you for your consideration of our request. Please contact Jill Marie Bussey at jbussey@cliniclegal.org or via phone at 240-353-5208 for any questions or concerns.

Sincerely,

ACRS
Advocates for Basic Legal Equality, Inc.
African Communities Together
African Services Committee
AILA
Alianza Americas
America's Voice
American Friends Service Committee
American Immigration Council
Americans for Immigrant Justice
Asian Americans Advancing Justice - Los Angeles
ASISTA
Bellevue Program for Survivors of Torture
Bonding Against Adversity
Boulder Valley Uinitarian Universalist Fellowship Immigration Justice Task force
Brooklyn Defender Services
Cameroon American Council
Campesinos Sin Fronteras
Canal Alliance
Capital Area Immigrants' Rights (CAIR) Coalition
CARECEN - NY
Catholic Charities of Southern New Mexico
Catholic Legal Immigration Network, Inc.
Catholic Legal Services, Inc., Archdiocese of Miami

[3] 90+ Organizations Join in Requesting 60-Day Comment Period to Respond to EOIR Fee Increases, Mar. 6, 2020, https://cliniclegal.org/resources/federal-administrative-advocacy/90-organizations-join-requesting-60-day-comment-period.

Catholic Migration Services
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Victims of Torture
Center Global
Central American Legal Assistance
Children's Legal Center
Christian Reformed Church Office of Social Justice
Church World Service
CIMA (Center of Immigrant Advancement)
Coalition on Human Needs
Coalition to Abolish Slavery & Trafficking (Cast)
Colorado Immigrant Rights Coalition (CIRC)
Columbia Law School Immigrants' Rights Clinic
Congregation of Our Lady of Charity of the Good Shepherd. U.S. Provinces
Contra Costa Defenders Association
Cornell Law School Asylum and Convention Against Torture Appeals Clinic
Emerald Isle Immigration Center
Employee Rights Center
Franciscan Action Network
Free Migration Project
Her Justice
HIAS Pennsylvania
Human Rights First
Immigrant Legal Resource Center
Immigration Institute of the Bay Area
International Refugee Assistance Project
Keep Tucson Together
Kids in Need of Defense (KIND)
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Aid Justice Center
Legal Aid Service of Broward County
Legal Services NYC
Long Beach Immigrant Rights Coalition
Lutheran Immigration and Refugee Service
Lutheran Social Services of New York
MADRE
Maine Immigrant Rights Coalition
MALDEF
Massachusetts Immigrant and Refugee Advocacy Coalition
Mississippi Immigrants Rights Alliance
Mobilization for Justice, Inc.
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Social Workers - Texas Chapter
National Immigrant Justice Center
National Immigration Forum

National Immigration Law Center
National Partnership for New Americans
New York Immigration Coalition
New York Law School Asylum Clinic
NIWAP, Inc.
Northern Illinois Justice for Our Neighbors
Northern Manhattan Coalition for Immigrant Rights (NMCIR)
Oasis Legal Services
OCCORD (Orange County Communities Organized for Responsible Development)
Oxfam America
Pennsylvania Immigration and Citizenship Coalition (PICC)
Public Law Center
Rainier Immigration Law, PLLC
Rian Immigrant Center
Rocky Mountain Immigrant Advocacy Network
Safe Horizon Immigration Law Project
San Joaquin College of Law - New American Legal Clinic
Self-Help for the Elderly
Sisters of Mercy of the Americas - Justice Team
Social Justice Collaborative
South Carolina Appleseed Legal Justice Center
Southern California Immigration Project
Southern Poverty Law Center
Southwestern Law School Community Lawyering Clinic
Southwestern Law School Removal Defense Clinic; Southwestern Law School Pro Bono Removal Defense Program
Stand Together Contra Costa
Tahirih Justice Center
TakeRoot Justice
The Florence Immigrant & Refugee Rights Project
The Leadership Conference/Education Fund
The Legal Aid Society
The Legal Clinic Hawaii
UnidosUS
United African Organization
West African Community Council
Whitman-Walker Health
World Relief