

Congress of the United States

Washington, DC 20515

September 27, 2023

The Honorable Ur Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

Dear Director Jaddou:

We write to request that the United States Citizenship and Immigration Services (USCIS) waive the filing fee for the Application for Employment Authorization (I-765) for parolees in order to expedite the work authorization process and provide these individuals the ability to legally and safely work. We appreciate the Administration's attention to this urgent humanitarian issue.

Since the spring of 2022, approximately 110,000 migrants have arrived in New York City. Today, about 60,000 of them remain under the City's care. While we anticipate many of these migrants will apply for asylum, those with parolee status are already eligible to apply for a work permit, which would give them legal work authorization ((c)11 category) for the duration of their parole. However, the I-765 filing fee poses a significant barrier to many potential parolee applicants.

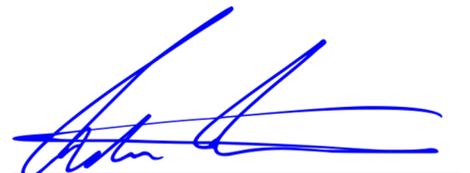
Currently, the filing fee for I-765 application is \$410. Many parolees have fled their countries of origin for urgent humanitarian reasons - fleeing oppression, violence, poverty, or persecution. As these individuals are unable to work legally or safely without a valid work authorization, the filing fee is simply unattainable for many, leaving them in limbo under the City's care. Reducing barriers to applying for employment authorizations will allow parolees to achieve self-sufficiency and reduce the strain on the city's resources.

We therefore respectfully request that USCIS waive the \$410 filing fee for all I-765's filed by parolees in order to provide parolees access to work permits without any financial burden. Lastly, as you consider our request to waive the fees of all I-765 forms for parolees, we further ask USCIS to consider making I-912 fee waiver forms available to submit online, to reduce the burden of having to mail these forms to USCIS. The United States has a responsibility to provide an orderly and legal pathway to work for those who are seeking safety and protection from the circumstances they fled from in the countries of origin. Comprehensive immigration reform is long past due. However, we can make these critical changes now that can provide immediate relief to this vulnerable population.

Sincerely,



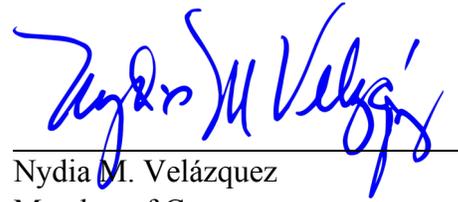
Kirsten Gillibrand
United States Senator



Adriano Espaillat
Member of Congress



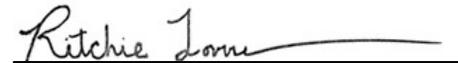
Paul D. Tonko
Member of Congress



Nydia M. Velázquez
Member of Congress



Grace Meng
Member of Congress



Ritchie Torres
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Dan Goldman
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



U.S. Citizenship
and Immigration
Services

November 8, 2023

The Honorable Kirsten Gillibrand
United States Senate
Washington, DC 20510

Dear Senator Gillibrand:

Thank you for your September 27, 2023 letter to U.S. Citizenship and Immigration Services (USCIS) regarding filing fees for Form I-765, Application for Employment Authorization (EAD application). We appreciate the concerns you and your fellow Members of Congress shared and your interest in employment authorization for parolees.

Once a noncitizen is paroled into the United States under section 212(d)(5)(A) of the Immigration and Nationality Act (INA), they may apply for a parole-based Employment Authorization Document (EAD), under the (c)(11) category, by filing Form I-765. Parolees may seek a waiver of the EAD application filing fee by concurrently submitting a Form I-912, Request for Fee Waiver, along with any supporting evidence.

On September 20, 2023, the Department of Homeland Security (DHS) announced a series of actions to increase border enforcement and accelerate processing of EAD applications.¹ As a result, USCIS will accelerate processing for EAD applications filed by parolees who scheduled an appointment through the CBP One app and will dedicate additional personnel and implement improvements to significantly decrease the median processing time for these applications from 90 days to 30 days. USCIS will also work to reduce the median processing time to 30 days for EAD applications filed by noncitizens paroled into the United States under the processes for Cubans, Haitians, Nicaraguans, and Venezuelans.

In addition, USCIS is increasing the maximum validity period to five years for EADs issued to noncitizens admitted as refugees or granted asylum; recipients of withholding of removal; and applicants for asylum, adjustment of status, and cancellation of removal. This will reduce the frequency with which noncitizens must apply to renew their EAD and will also reduce processing times and the filing fees they would otherwise pay if not seeking a fee waiver.

¹ Department of Homeland Security, Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act, available at: <https://www.dhs.gov/news/2023/09/20/fact-sheet-biden-harris-administration-takes-new-actions-increase-border>.

While noncitizens paroled into the United States after scheduling an appointment through the CBP One app may submit EAD applications under the (c)(11) category, only a relatively small percentage of such individuals have done so. To raise awareness, USCIS has sent out more than 1.4 million emails and text messages to certain parolees, including those who were paroled into the United States after scheduling an appointment through the CBP One app, to inform them of their eligibility to seek employment authorization. DHS has also extended and redesignated Venezuela for Temporary Protected Status (TPS), which will allow certain Venezuelan nationals to immediately apply for an EAD.

This recent announcement reinforces USCIS' commitment to making the process of applying for and obtaining an EAD easier and more efficient. In 2022, USCIS updated the maximum validity period for initial and renewal EADs under the parole and deferred action categories (categories (c)(11) and (c)(14), respectively) to the end date of the authorized parole or deferred action period. Previously, the validity periods for initial and renewal EADs under categories (c)(11) and (c)(14) were sometimes shorter than the duration of the underlying period of stay authorized, requiring some applicants to file multiple EAD applications to obtain employment authorization for their entire period of parole or deferred action. This update has made applying for and obtaining an EAD more efficient.

I appreciate your recommendation to waive filing fees for all EAD applications filed by parolees under the (c)(11) category. As you know, except for very limited funds appropriated for specific functions by Congress, USCIS is a fee-funded agency. Indeed, 96% of agency work is funded by fees to cover all costs, including fast growing humanitarian work that does not include a fee, such as asylum applications. The INA authorizes DHS to charge fees for adjudication and naturalization services at a level to "ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants." INA § 286(m). While USCIS recognizes that noncitizens granted parole for urgent humanitarian reasons may have fled their countries due to oppression or violence, noncitizens are paroled into the United States for a variety of reasons and circumstances, including for the significant public benefit of the United States. In addition, in many instances, noncitizens may only be paroled if they have a sponsor willing to provide financial support, or they are otherwise able to demonstrate that they have the ability to support themselves while the noncitizen is living in the United States.

USCIS developed the Form I-912, Request for Fee Waiver, to facilitate the fee waiver process for individuals who are unable to pay a filing fee. In general, USCIS reviews the Form I-912 on a case-by-case basis to determine whether a fee waiver should be granted as a matter of discretion in a particular case. Each year, USCIS provides fee waivers to hundreds of thousands of individuals under its long-standing policy. For example, through FY 2023 Q3, USCIS granted 88.2% (or 436,729 out of 495,240) of all fee waiver requests, which represented approximately \$258.9 million in lost revenue. To better support fee waiver requests, USCIS has developed guidance to clarify the requirements for requesting a fee waiver and to provide clear examples of evidence that may be provided.² Evidence may include proof of shelter residence, affidavits from community-based providers, lack of employment and more.

² See <https://www.uscis.gov/forms/filing-fees/additional-information-on-filing-a-fee-waiver>.

USCIS remains committed to reviewing individual fee waiver requests on a case-by-case basis in a fair and efficient manner, consistent with the purpose of Form I-912. However, until Congress appropriates USCIS with the appropriate resources to cover growing costs, we are unable to implement a fee exemption for all parole-based EAD applications.

You also recommended that USCIS make the Form I-912 available to file online to reduce the burden of physically mailing forms to USCIS. In 2022, USCIS extended the online filing options for Form I-765 to include noncitizens paroled into the United States based on urgent humanitarian or significant public benefit grounds and those already present in the United States who receive parole in place. However, as you noted, applicants seeking a fee waiver must continue to submit Form I-765 by mail. USCIS appreciates your suggestion and is exploring technical options to implement certain fee waivers for online submission in FY24.

USCIS is committed to exploring all available avenues to eliminate unnecessary barriers, restore faith in the immigration system, and improve transparency, efficiency, and integrity in the system.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director