

United States Senate

WASHINGTON, DC 20510-3205

September 21, 2020

Kenneth T. Cuccinelli
Senior Official Performing the Duties of the Director,
U.S. Citizenship and Immigration Services
20 Massachusetts Avenue NW
Washington, DC 20001

Joseph Edlow
Deputy Director for Policy
U.S. Citizen and Immigration Services
20 Massachusetts Avenue NW
Washington, DC 20001

Dear Mr. Cuccinelli and Deputy Director Edlow,

We write to inquire about recent changes to adjudication procedures that have caused enormous hardship among our constituents and the providers who serve them, and to ask for immediate review of these new policies. It has come to our attention that asylum, U Visa, and other routine applications are now regularly rejected for failure to complete irrelevant or immaterial fields that have no bearing on the information needed for final adjudications. These new, unannounced requirements and frequent rejections have caused confusion among applicants, created new and additional burdens on legal representatives and community advocates, and have likely dissuaded individuals from pursuing benefits they are legally entitled to request under our laws. By contrast, no legitimate need has been articulated to explain this change, nor have instructions been updated to ensure applicants are aware of the requirements.

In light of the above, I respectfully request responses to the following:

1. Please provide a rationale for requiring that non-applicable or immaterial fields must include an answer or be rejected before an interview or hearing, where the application will be reviewed and information added regardless. Please address why issuing a request for evidence is not a suitable solution when a field is left blank.
2. How many applications have been rejected for these reasons since the new policy has gone into effect?
3. How are these requirements communicated to pro se applicants, since the published instructions do not include them?
4. How many pro-se applications have been re-submitted after a rejection?
5. Can you confirm that applications rejected for not being entirely filled out because non-applicable and/or immaterial fields were left blank will be considered to be timely filed so long as the initial filing was made before the one-year deadline? Please provide what

training materials or guidance has been given to the local offices on how to handle one-year filing deadline issues to local offices or service centers.

6. Can you confirm that applications rejected for not being entirely filled out because non-applicable and/or immaterial fields were left blank will nonetheless start the clock for employment authorization eligibility purposes?
7. Who is responsible at each of the USCIS Service Centers for issuing rejection notices? Can you provide any written USCIS guidance given to those who issue rejection notices?
8. What answers are acceptable to immaterial or irrelevant fields? Practitioners are reporting that N-A or NA are being rejected whereas N/A is being accepted.
9. What is the purpose of requiring the name and A-number on the back of the photo that is stapled to the application, and why is it necessary to reject an application if it is not included with the application?
10. Can you please provide us with any and all policies regarding rejections of forms by the Service Centers?
11. Please provide an account of all additional costs and reductions in revenue resulting from the policies previously inquired into in the questions above, including—but not limited to—costs arising from increased hiring or hours worked and reductions in revenue resulting from the processing of fewer applications per full-time employee.

We appreciate your prompt attention and response to the questions above by October 2, 2020, in order to best ensure the rights and wellbeing of asylum seekers and their families.

Sincerely,



Kirsten Gillibrand
United States Senator

/s/ Edward J. Markey
United States Senator

/s/ Richard Blumenthal
United States Senator

/s/ Ron Wyden
United States Senator

/s/ Chris Van Hollen
United States Senator

/s/ Patty Murray
United States Senator

/s/ Amy Klobuchar
United States Senator

/s/ Michael F. Bennet
United States Senator

/s/ Maria Cantwell
United States Senator

/s/ Elizabeth Warren
United States Senator

/s/ Jeffrey A. Merkley
United States Senator

/s/ Jacky Rosen
United States Senator



U.S. Citizenship
and Immigration
Services

December 21, 2020

The Honorable Kirsten Gillibrand
United States Senate
Washington, DC 20510

Dear Senator Gillibrand:

Thank you for your September 21, 2020 letter.

U.S. Citizenship and Immigration Services (USCIS) is in the process of re-examining the criteria for rejecting applications for Asylum (Form I-689) and petitions for U nonimmigration status (Form I-918). USCIS is also involved in litigation regarding the agency's rejection criteria and is unable to provide additional comment at this time due to the pending litigation. See *Vangala et al v. U.S. Citizenship and Immigration Services, et al*, No. 4:20-cv-08143 (N.D. Cal.) (complaint filed Nov. 19, 2020).

Thank you again for your letter. The co-signers 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 blue ink, appearing to read "J. Edlow", with a long horizontal flourish extending to the right.

Joseph B. Edlow
Deputy Director for Policy