



William Zabel
Chairman of the Board

Jojo Annobil
Executive Director

December 12, 2017

17 Battery Place, Suite 236
New York, NY 10004
(212) 407-3417

Department of Homeland Security
US Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Ave. NW
Washington, DC 20529-2140
Via Federal e-Rulemaking Portal: <http://www.regulations.gov>.

RE: OMB Control Number 1615-0040, e-Docket ID Number USCIS-2005-0035

Dear Sir or Madam:

We write to oppose aspects of the proposed revision to form I-765 application for employment authorization and its instructions. We believe that many of the revisions will harm the most vulnerable immigrants, particularly asylum seekers, and may not comply with international law concerning the United States' treatment of asylum seekers.

Immigrant Justice Corps (IJC) is the country's first fellowship program dedicated to meeting the need for high-quality legal assistance for immigrants seeking citizenship and fighting deportation. IJC's goal is to use legal assistance to lift immigrant families out of poverty – helping them access secure jobs, quality health care and life-changing educational opportunities. Inspired by the Katzmman Study Group on Immigrant Representation,¹ IJC brings together the country's most talented advocates, connects them to New York City's best legal and community institutions, leverages the latest technologies, and fosters a culture of creative thinking that will produce new strategies to reduce the justice gap for immigrant families, ensuring that immigration status is no longer a barrier to social and economic opportunity. Now in our second year of existence, IJC has 70 fellows in the field providing legal representation to thousands of immigrants across the greater New York metropolitan area. Our fellows work primarily on removal defense as well as affirmative applications such as asylum, U visas, and T visas. In

¹ "Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings," available at http://www.cardozolawreview.com/content/denovo/NYIRS_Report.pdf; and "Accessing Justice II: A Model for Providing Counsel to New York Immigrants," available at http://www.cardozolawreview.com/content/denovo/NYIRS_ReportII.pdf.

many of these applications, obtaining an EAD quickly is vital to the applicant and the applicant's family.

Requirement for Government Issued Identification

We are most concerned with the new requirement that individuals applying for an I-765 must provide a passport or other government issued identification that includes a photograph. In our experience, we have seen that many asylum seekers flee their country with almost nothing beyond "the shirt on their back." U.S. immigration law has always made allowances for those fleeing persecution including generous grounds of admissibility waivers. Asylum seekers who fear their government should not be required to obtain a passport from that government in order to seek work authorization in the United States, and making that request could be seen as availing themselves of their government's protection. With asylum seekers now routinely waiting more than two years for affirmative interviews and potentially many years more in backlogged removal proceedings, this change in the law seems particularly punitive.

Requirement Regarding Arrest Records

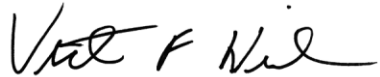
Second, we are deeply disturbed that asylum seekers, and asylum seekers alone, are singled out and must provide records of arrest and conviction. In our experience, asylum seekers often flee their countries after being prosecuted for persecutory purposes, must those individuals now seek records of their arrests before they can work lawfully in the United States? Determining what effect, if any, an arrest in the home country or in the United States will have on an individual's asylum eligibility requires a complicated analysis. This analysis is best conducted by asylum officers and immigration judges with specific training on the "particular serious crime" and "serious political crime" areas of law. Making this analysis requires an understanding of the law of the country or state where the crime allegedly took place as well as remaining current on constantly changing interpretations by the Board of Immigration Appeals and Federal Circuit Courts. An official in a Service Center who is processing forms should not be making substantive determinations about the merits of an asylum seeker's claim.

Safe Address Instructions

Third, it is important that the option for the applicant to use a safe mailing address be highlighted in the instructions for SIJS applicants, asylum applicants, and individuals granted withholding, in addition to VAWA, U and T applicants. There are many reasons that those seeking humanitarian relief may not be living in secure housing and it is important they receive proper notice about their rights regarding the ability to use a secure address.

We hope that you will take our comments into consideration and make changes to the regulations before finalizing them.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Neilson". The signature is fluid and cursive, with the first name "Victoria" being more prominent and the last name "Neilson" following in a similar style.

Victoria F. Neilson, Esq.
Legal Director