

Congress of the United States

Washington, DC 20515

November 3, 2022

Ur M. Jaddou, JD
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave NW, Washington, DC 20001

Dear Director Jaddou:

We urge you to swiftly publish guidance for people seeking asylum whose immigration removal court cases have been terminated by an immigration judge at the request of the Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA). In a [May 18, 2022 letter](#), the American Immigration Lawyers Association (AILA) alerted U.S. Citizenship and Immigration Services (USCIS) to the need for additional guidance for people affected by this type of termination. The United States has a duty to people seeking asylum under international law, and the lack of guidance is disrupting the lives of people seeking asylum and adversely contributing to the processing backlog at USCIS.

On April 4, 2022, Kerry Doyle, the Principal Legal Advisor for OPLA, issued a memo strongly encouraging OPLA attorneys to exercise prosecutorial discretion, including dismissal of proceedings, in their cases.¹ We applaud these efforts to pursue prosecutorial discretion. Although this guidance came from OPLA, outstanding questions for USCIS remain on how to navigate affirmative asylum claims and applications for work authorizations in the wake of a dismissal before the immigration court. We have particular concerns that asylum seekers forced to refile their work authorization and their applications are entering an existing backlog of more than a year, disrupting both their lives and our local economies.²

To address these concerns, we urge you to publish guidance covering people seeking asylum with dismissed immigration court cases. We specifically urge you to incorporate a range of topics and statuses that could affect potential asylum seekers, including application filings, work authorization documents, filing deadlines, and appeals and referrals of cases. Dependents of asylum seekers who aged out after the filing of the initial defensive application should be granted retroactive eligibility under this guidance. Importantly, the guidance should provide avenues for people with defensive applications to avoid having to refile their asylum application and allow them to continue using their work authorization secured through their pending status. We also urge you to publish any related guidance on your website in accessible text formatting and in multiple languages.

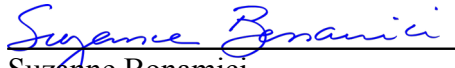
People who seek asylum are typically fleeing horrific violence in their home countries and come to the United States to save their lives, the lives of their children, or both. Clear, comprehensive guidance for people seeking asylum with terminated removal proceedings is needed. We echo the concerns raised in the May 18, 2022 letter from AILA.

¹ Memorandum from Kerry E. Doyle, Principal Legal Advisor, to All OPLA Attorneys (Apr. 3, 2022), https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf. As a result of litigation challenging Secretary Mayorkas's enforcement priorities, OPLA is now exercising prosecutorial discretion based on its inherent authority to do so, rather than following the Mayorkas priorities to which the Doyle memo cites. See <https://www.ice.gov/about-ice/opla/prosecutorial-discretion>. Under this general discretionary authority, OPLA continues to move to dismiss removal proceedings with asylum applications pending.

² USCIS, "Check Case Processing Times," (accessed Oct. 6, 2022), <https://egov.uscis.gov/processing-times/>. Form: I-765; Form Category: Based on a pending asylum application [(c)(8)]; Field Office or Service Center: Nebraska (12.5 months), Potomac (13 months), Texas (12.5 months).

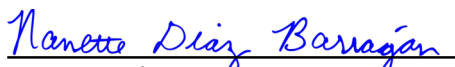
Providing information and clarification of status to people seeking asylum and their representatives is critical to improving the efficiency of our immigration system. We greatly appreciate your service to people seeking asylum in the United States and appreciate your prompt attention to this issue.

Sincerely,



Suzanne Bonamici
Member of Congress



Sherla Jackson Lee
Member of Congress



James P. McGovern
Member of Congress



Nanette Diaz Barragán
Member of Congress


Dean Phillips
Member of Congress


Raúl M. Grijalva
Member of Congress

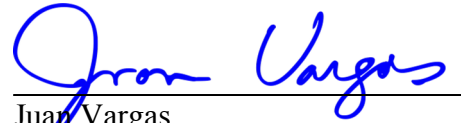

Eleanor Holmes Norton
Member of Congress


Earl Blumenauer
Member of Congress


Henry C. "Hank" Johnson, Jr.
Member of Congress



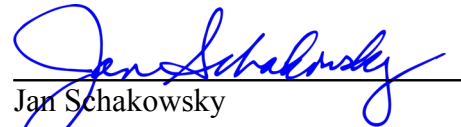
Linda T. Sánchez
Member of Congress



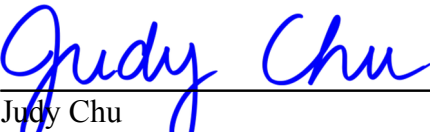
Juan Vargas
Member of Congress



Adriano Espaillat
Member of Congress



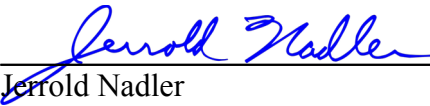
Jan Schakowsky
Member of Congress



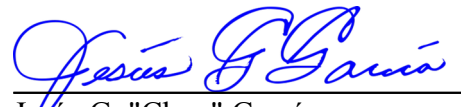
Judy Chu
Member of Congress



Sylvia R. García
Member of Congress



Jerrold Nadler
Member of Congress



Jesús G. "Chuy" García
Member of Congress



André Carson
Member of Congress



Zoe Lofgren
Chair
Subcommittee on Immigration and
Citizenship