

**San Mateo County Immigrant Forum**  
**Meeting Notes**  
**10/15/2020**

**1. Welcome & Introductions – Immigrant Services Team**

- a. Thank you to all for joining us on Zoom. The Immigrant Forum will be held virtually until further notice.

**2. USCIS Updates: Sai Phavisith, Community Relations Officer**

- a. Video interviews happening for citizenship
  - Officer is in one room and the applicant in another room
- b. TPS and Adjustment of Status for cases not in 6<sup>th</sup> or 9<sup>th</sup> Circuit
  - On Oct. 6, 2020, USCIS issued policy guidance in the USCIS Policy Manual clarifying whether temporary protected status (TPS) beneficiaries are eligible for adjustment of status
  - The updated guidance reaffirms USCIS' interpretation that an immigrant who enters the United States without having been inspected and admitted or inspected and paroled, and who is subsequently granted TPS, generally does not meet that requirement
  - More information below in 3b
- c. Proposed rule for Affidavit of Support
  - The proposed update would require American citizens, U.S. nationals and lawful permanent residents who choose to sponsor an immigrant, to provide credit reports and credit scores, certified copies of income tax returns for the last three years, and bank account information to effectively demonstrate they can maintain the required income
  - Additionally, under the proposed rule, any petitioning sponsor found to have received means-tested public benefits within the last 36 months of submitting a Form I-864, or to have defaulted on previous obligations to support an immigrant, must be backed by a joint sponsor who has received no such public benefits during that time
- d. Public Charge has begun implementation
  - On Sept. 11, 2020, the U.S. Court of Appeals for the Second Circuit issued a decision that allows DHS to resume implementing the Public Charge Ground of Inadmissibility final rule nationwide. The rule applies to cases filed on or after 2/24/20 and includes applicants for their initial green card and nonimmigrants who are extending or changing their status. It does not apply to green card holders who are applying to renew/replace their green cards or applying for citizenship
  - **\*Update: On November 2<sup>nd</sup>, a federal judge in Chicago struck down the public charge rule that would deem certain immigrants ineligible for a green card if they applied for food stamps, Medical or other public benefits. Just two days later, a federal appeals court allowed the Trump administration's public charge rule to go back into effect while the case is being considered. A U.S. Citizenship and Immigration spokesperson stated they would**

immediately start reapplying the rule to new cases but would not re-adjudicate cases that were previously approved

- e. Asylum and EADs-new rule 8/25
  - This rule removed the 30-day time frame of when an EAD must be produced by USCIS
  - Asylum applicants can file their renewal work authorization applications up to 180 days before the expiration date, minimizing potential gaps in employment authorization
  - The rule prevents individuals who, absent good cause, illegally entered the United States from obtaining employment authorization based on a pending asylum application. Additionally, the rule defines new bars and denials for employment authorization, such as for certain criminal behavior; extends the wait time before an asylum applicant can apply for employment authorization from 150 days to 365 calendar days; limits the employment authorization validity period to a maximum of two years; and automatically terminates employment authorization when an applicant's asylum denial is administratively final
  - There is an injunction of this rule for members of two organizations, CASA de Maryland (CASA) and the Asylum Seeker Advocacy Project (ASAP), based on the ruling from U.S. District Court for the District of Maryland on September 11, *Casa de Maryland et al v. Chad Wolf*
- f. USCIS extends flexibility of response to USCIS requests
  - On Sept 11, USCIS extended this policy to the below documents if the issuance date listed on the request, notice, or decision is between March 1, 2020, and Jan. 1, 2021, inclusive
    - Requests for Evidence;
    - Continuations to Request Evidence (N-14);
    - Notices of Intent to Deny;
    - Notices of Intent to Revoke;
    - Notices of Intent to Rescind and Notices of Intent to Terminate regional investment centers;
    - Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant;
    - Filing date requirements for Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA); or
    - Filing date requirements for Form I-290B, Notice of Appeal or Motion
  - USCIS will consider a response to the above requests and notices received within 60 calendar days after the response due date set in the request or notice before taking any action
- g. If anyone has questions, contact Nina Sachdev at [Nina.K.Sachdev@uscis.dhs.gov](mailto:Nina.K.Sachdev@uscis.dhs.gov)

### 3. Legal Updates: Sarah Lakhani, ILRC

- a. Fees litigation
  - DHS is trying to change the fees USCIS charges for various immigration applications. This started in November 2019, when USCIS proposed regulatory changes in fees, followed by a public comment period (although USCIS tried,

unsuccessfully, to reduce fee waivers even dating back to 2018; there is ongoing litigation around this, *Seattle v. DHS* 2019)

- On August 3, 2020, DHS finalized the fee changes it plans to make – DHS wants to increase fees dramatically for most immigration applications. For example, it wants to add a new \$50 fee for asylum applications (which means the US will join Iran, Fiji, and Australia as the only countries in the world charging asylum applicants a fee), it wants to limit fee waivers for low-income immigrants, and “unbundle” the fees for different forms associated with green card applications such that applying for permanent residency would become more expensive
- The changes were scheduled to take effect October 2, 2020, but on 9/29, a federal district court in Northern CA preliminarily enjoined the fee rule from taking effect nationwide while the litigation continues (*ILRC v. Wolf*). On 10/8, in another legal challenge against the fee rule in Washington, D.C. (*Northwest Immigrant Rights Project v. USCIS*), a federal judge also blocked the fee rule in its entirety, nationwide, while litigation in the case continues
- This means that all immigration fees will remain at the current level and fee waivers will continue to be available
- What’s next? The government could challenge these injunctions at the appellate court level. What happens in the future will depend on what happens in the CA case, the D.C. case, and in another case on immigration fees that’s proceeding through the courts in Massachusetts (this is [Project Citizenship v. DHS](#))

b. Update on Temporary Protected Status litigation

- On 9/14, a panel of the 9<sup>th</sup> Circuit Court of Appeals overturned an injunction protecting immigrants from El Salvador, Haiti, Nicaragua, and Sudan from being deported once their Temporary Protected Status expires in the case *Ramos v. Wolf*
- The 10 countries currently designated for TPS are: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen. However, in 2017 and 2018, the Trump administration announced decisions to terminate TPS for 6 countries: El Salvador, Haiti, Honduras, Nicaragua, Nepal, and Sudan, saying their home countries were now safe for them, but these terminations were met w/a number of legal challenges filed in U.S. federal district courts (including that the decisions stemmed from racial discrimination, violated required procedures, and infringed on the constitutional rights of TPS beneficiaries and their US citizen children)
- In the *Ramos v. Wolf* case, in 2018 a lower federal court in Northern CA blocked the Department of Homeland Security from taking steps to deport TPS recipients from El Salvador, Haiti, Nicaragua, and Sudan whose status had expired
- In terms of impact of the 9<sup>th</sup> Circuit’s September decision, as the LA Times reported, the 9<sup>th</sup> Circuit’s decision affects 300K noncitizens and 200K of their

US citizen children; many of the immigrants w/TPS or whose TPS has expired who are from these countries have lived in the US for decades

- What's next? The ruling doesn't immediately end TPS. TPS holders from Haiti, Nicaragua, Sudan, and El Salvador should have TPS status and work authorization through Jan. 4, 2021 (plus TPS holders from Haiti are protected through another lawsuit, *Saget v. Trump*). The TPS holders and their US citizen children and attorneys representing them in their lawsuit against the government are expected to appeal the 9<sup>th</sup> Circuit's decision, but if DHS is permitted to implement the termination of TPS, the wind down period for each country will vary. Most countries will have approximately 6 months from the date a court decision allows DHS to implement the termination of TPS, except for El Salvador, which will have one year

c. Census litigation

- CENSUS WRAP-UP DATE - On March 12, 2020 households across the country began receiving invitations to complete the 2020 Census. Because of the pandemic, the deadline for households to complete the Census was originally October 31<sup>st</sup>, 2020, but in August the Census Bureau abruptly revised that deadline to September 30<sup>th</sup>, 2020
- However, a coalition of cities, counties, and civil rights groups subsequently sued the Census Bureau (*National Urban League v. Ross*), demanding it restore its previous plan for finishing the census at the end of October, as it had originally planned. In September, a federal judge in San Jose ordered the Census Bureau to continue its counting efforts through Oct. 31, 2020. The government appealed that order to the 9<sup>th</sup> Circuit Court of Appeals, which, on Oct. 7, rejected the government's request to set aside the lower court's order and allow it to stop Census counting
- The government immediately asked the Supreme Court to immediately stay the San Jose judge's decision and on 10/13, SCOTUS allowed the Trump administration to halt the 2020 census count ahead of schedule  
**\*Update: Census ended October 15**
- APPORTIONMENT - Another Census-related litigation update has to do w/ Trump's July order to the Commerce Department (which oversees the Census Bureau) to exclude undocumented immigrants from Census population counts that will be used next year to reallocate seats in Congress. If Trump's order were carried out, it would exclude millions of people when determining how many House seats each state should have based on the census, thereby reversing the longstanding policy of counting everyone regardless of citizenship or legal status; this would likely result in shifting several House seats from Democratic states to Republican states
- On September 10<sup>th</sup>, a federal court in NY rejected Trump's order, ruling that it was so obviously illegal that the lawsuit didn't even need to go to trial. The court said that Trump's proposal clearly exceeded his authority under federal laws governing the census and reapportionment, and that Trump's order violates the law on reapportionment because, so long as they reside in the US,

undocumented immigrants qualify to be counted as residents for apportionment purposes. The Trump administration had argued that undocumented residents should not be counted as “residents” because they were not present in the US w/the permission of the government

- The government then appealed this case to the Supreme Court, and on Sept. 30<sup>th</sup>, the Court granted the government’s request to consider reviewing the NY court’s decision blocking Trump from excluding undocumented immigrants from the Census numbers used for Congressional apportionment. So now the Supreme Court will decide whether it will review the NY decision, and if it does decide to review the decision, the Court could schedule oral argument for December

d. H-1B Visas

- First, there is a [new rule out](#) of USCIS on the H-1B visa program, for highly skilled workers. It will take effect on 12/7. The rule has been described as a sweeping policy that will effectively cripple the visa program. Among the changes in the rule are: increasing the wage levels required for all H-1B workers, narrowing the jobs that qualify for the program, and reducing the visa period from 3 years to 1 year for some H-1B holders (Agency is accepting comments up to 12/7)
- Second, ICE published a [new proposed rule](#) at the end of September that would change the admission period of F, J, and I visas for students, exchange visitors, and representatives of foreign media companies, and commentators are arguing that it would have extremely negative impacts on students and universities if ultimately implemented (Comment period closes 10/26)

#### 4. Office of Community Affairs Updates

- a. The Community Crew continues to distribute masks 4 times a week to high COVID-19 positivity rate locations and low self-response Census tracts
  - Follow @SMC\_CommAffairs to see all locations
- b. OCA is looking for COVID testimonial/experience videos, particularly in different languages
- c. San Mateo County’s Board of Supervisors allocated an additional \$2 million to the County’s [Immigrant Relief Fund](#)
- d. The [San Mateo County Small Property Owner Assistance Program](#), established to assist residential property owners impacted by COVID-19, has reduced some application requirements and extended the application deadline to Sunday, Nov. 29