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Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

RE: ILRC Comment in Opposition to Interim Final Rule - DHS Docket No. USCIS-2026-0166; CIS No. 2855-26; RIN 1615-AD17, Signatures on Immigration Benefit Requests (“IFR”)

Dear USCIS Office of Policy & Strategy,

The Immigrant Legal Resource Center (ILRC) submits this comment in strong opposition to the Department of Homeland Security (“DHS”) United States Citizenship and Immigration Services (“USCIS”) Interim Final Rule, DHS Docket No. USCIS-2026-0166; CIS No. 2855-26; RIN 1615-AD17, Signatures on Immigration Benefit Requests, published on May 11, 2026 (“IFR”). This rule will impose harsh penalties on applicants of USCIS benefits for minor, non-substantive errors instead of allowing applicants to correct them, and harm applicants whose eligibility depends on the original filing date preventing them from rightfully gaining benefits they may be entitled to.

The ILRC is a national non-profit organization that provides legal trainings, educational materials, and advocacy to advance immigrant rights. The ILRC’s mission is to work with and educate immigrants, community organizations, and the legal sector to continue to build a democratic society that values diversity and the rights of all people. Since its inception in 1979, the ILRC has provided technical assistance on hundreds of thousands of immigration law issues, trained thousands of advocates and pro bono attorneys annually on immigration law and emerging issues, distributed thousands of practitioner guides, provided expertise to immigrant-led advocacy efforts across the country, and supported hundreds of immigration legal non-profit organizations supporting in building their capacity to support immigrants and their families.

The ILRC is also a leader in interpreting family-based and humanitarian immigration law as well as immigration relief for immigrants, producing trusted legal resources including webinars, trainings, and manuals such as *Families & Immigration: A Practical Guide*; *Essentials of Asylum Law*; *Public Charge and Immigration Law*; *The U Visa: Obtaining Status for Immigrant Survivors of Crime*; *Parole in Immigration Law*; *Naturalization and U.S. Citizenship: The Essential Legal Guide*; *All Things Employment Authorization Document (“EAD”)*; *Adjustment of Status: Understanding Eligibility and Finding Pathways*; and others. Through our extensive network with service providers, immigration practitioners, and immigration benefits applicants, we have developed a profound understanding of the barriers faced by vulnerable immigrant and low-income communities of color. It is through this lens that we provide comment on this IFR regarding signatures on immigration applications.

As explained below, the IFR is arbitrary and capricious under the Administrative Procedure Act (“APA”) because USCIS fails to account for applicants' reliance on its prior practices, or provide an adequate justification for the change. The IFR imposes severe punitive consequences for benefits applicants contrary to past practice and retains fees contrary to statutory authority.

The ILRC strongly opposes the IFR for the reasons detailed below.

I. The IFR is Arbitrary and Capricious under the Administrative Procedure Act.

The APA establishes the procedures by which federal agencies are held accountable to the public and subjects their actions to judicial review.¹ Under Supreme Court precedent, the agency is required to engage in “reasoned decisionmaking.”² Further, an agency action is found to be arbitrary and capricious if:

the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or it is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.³

The IFR is arbitrary and capricious for a number of reasons. USCIS fails to: (1) consider important aspects of the problem, including that this policy marks a drastic departure from past practice and imposes punitive consequences for simple mistakes; (2) account for applicants' reasonable reliance on the prior practice; and (3) adequately justify that change in policy.

a. USCIS' departure from past practice without any meaningful alternatives imposes permanent punitive consequences on applicants for non-substantive mistakes.

¹ *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1905, 207 L. Ed. 2d 353 (2020).

² *Id.* quoting *Michigan v. EPA*, 576 U.S. 743, 750, 135 S.Ct. 2699, 192 L.Ed.2d 674 (2015).

³ *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983).

The IFR is unnecessarily punitive because denying an application for a non-substantive signature deficiency imposes consequences that are disproportionate to the error by the applicant. These consequences include financial hardship from the forfeiture of filing fees and the costs of re-filing, additional delays in adjudication, and the potential loss of eligibility when the benefit depends on the original filing date.

When a request is denied, USCIS applicants lose their filing fees and must submit a new application, resulting in additional costs and delays. For low-income applicants, these consequences can be particularly severe. They must secure additional funds to file a new application because of a minor, readily correctable error that may have resulted from a simple oversight. Given the recent increase in filing fees, forcing applicants to forfeit their filing fees and pay a new fee at the time of re-filing because of a minor, correctable signature deficiency is a disproportionate penalty. Although “DHS acknowledges that retaining a fee and requiring a requestor to pay a new fee at the time of re-filing may impose an additional financial hardship on certain requestors,”⁴ it offers no meaningful alternatives or mitigating measures to address those harms.

Furthermore, a denial issued months into the adjudication process may occur after critical statutory or regulatory deadlines have passed, leaving applicants and petitioners without a meaningful opportunity to preserve eligibility through re-filing. An applicant whose petition is accepted by USCIS and issued a receipt notice, but later denied because of a signature deficiency, may lose eligibility if a filing deadline has passed or lose their place in line. These are severe consequences for a technical, non-substantive error. For these applicants, re-filing would not cure the harm caused by the denial.

Child Status Protection Act (CSPA) cases illustrate the critical importance of a petition's filing date. The CSPA amended the definition of "immediate relative" in Section 201 of the Immigration and Nationality Act by freezing a child's age on the date USCIS receives a visa petition filed by the child's U.S. citizen parent.⁵ If the child is under 21 on the filing date, the child remains an immediate relative regardless of age at the time of final adjudication. Under the IFR, however, USCIS could accept a petition, issue a receipt notice, and later deny the petition because of a signature deficiency. By that time, the child may have aged out of eligibility, and re-filing would not restore their eligibility, resulting in the permanent loss of an immigration benefit.

The same concerns arise in numerous other filing contexts where statutory deadlines, filing windows, or priority dates are critical, including adjustment of status applications tied to visa availability, extension or change of status requests filed near the expiration of lawful status,

⁴ See *Signatures on Immigration Benefit Requests*, 91 Fed. Reg. 25479, 25486 n.36 (May 11, 2026).

⁵ INA § 201(f)(1).

Temporary Protected Status (TPS) registration periods, parole programs with fixed filing windows, and petitions subject to sunset dates or numerical limits. DHS failed to adequately consider the consequences for applicants whose eligibility for an immigration benefit depends on preserving their original filing date.

b. USCIS fails to account for applicants' reasonable reliance on their prior practice.

USCIS has issued policies regarding signatures and related reimbursement of fees dating back to 2010.⁶ And ever since, practitioners reported that, after accepting an application, adjudicating officers issued a Request for Evidence (RFE) allowing applicants to correct or clarify a signature defect. These instances demonstrate that USCIS has exercised discretion to permit corrections despite such defects. USCIS should allow applicants the opportunity to correct or cure a missing or defective signature, as this approach is more equitable. As discussed below, signature-related denials represent less than 1% of the agency's overall caseload. While we recognize the importance of requiring valid signatures on filed requests, applicants who make minor, non-substantive errors should be given the opportunity to correct them. They should not face denial for a technical mistake that can result in the loss of filing fees, significant delays, and, in some cases, access to important immigration benefits.

c. USCIS fails to adequately justify this change in policy.

USCIS points to an increase in invalid signatures, citing an “uptick” in signature-related denials, namely 2,953 denials in Fiscal Year 2025, up from 1,545 in 2024.⁷ However, in context, these figures are minimal relative to overall adjudications. The IFR notes that USCIS processed 11,037,994 cases in 2025,⁸ meaning signature-related denials accounted for approximately 0.027% of filings, fewer than 3 in every 10,000 cases. DHS also concludes that amending the regulations to permit curing would be inappropriate. They state that “while there is discretion under the regulations to allow submission of required evidence post-submission, USCIS officers have no discretion to ‘cure’ an invalid signature or deficient signature that would have rendered the filing invalid at the time of submission.”⁹ In support of this position, DHS cites processing delays and argues that allowing applicants to retain their original filing dates while curing signature deficiencies would be unfair to applicants who filed properly.¹⁰

However, the IFR applies to applications that USCIS has already accepted and receipted before discovering a signature deficiency. At that point, the application has already been placed in the

⁶ USCIS Policy Memorandum from the Office of the Director, “Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services”, PM-602-0134.1 (Feb. 15, 2018).

⁷ See *Signatures on Immigration Benefit Requests*, 91 Fed. Reg. 25479, 25487 (May 11, 2026).

⁸ *Id.* at 25484.

⁹ *Id.*

¹⁰ *Id.* at 25481-25485

adjudication queue, so allowing the applicant to cure the deficiency would not move the case ahead of others. Instead, it would simply preserve the position USCIS has already assigned it. Given the very low number of signature-related denials, any impact on filing order or processing queues would be minimal and does not support concerns that allowing applicants to cure signature defects would meaningfully disadvantage others. If there is any resulting prejudice, it is slight compared to the severe consequences of denying an application for a non-substantive, easily correctable error such as an invalid signature.

II. The IFR Permits USCIS to Retain Filing Fees in Violation of 8 U.S.C. § 1356(m).

The IFR amends 8 C.F.R. § 103.2(a)(7)(ii) to codify USCIS adjudicating officers' authority to reject or deny a benefit request if USCIS accepts the request but later determines that it contains an invalid signature.¹¹ The IFR makes clear that, even if the USCIS Lockbox system accepts an application, an adjudicator who later identifies a signature deficiency may deny it, allowing USCIS to retain the filing fee and treat the case as fully adjudicated.¹² Moreover, the IFR further explains such a rejection cannot be appealed.¹³ USCIS argues that the “IFR is consistent with INA 286(m), 8 U.S.C. 1356(m), which 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.’”¹⁴ However, INA § 286(m), 8 U.S.C. § 1356(m) authorizes cost-recovery fees but does not **expressly authorize retaining the full fee** after declining to adjudicate an improperly signed request, particularly when the *full* service has not been provided. In fact, retaining the entire fee may be disproportionate to the processing performed if the signature defect is discovered early in the adjudication stage.

USCIS argues that retaining filing fees helps recover the costs of adjudicating benefit requests.¹⁵ However, if USCIS performs little or no substantive adjudication before identifying a signature deficiency, retaining the entire filing fee exceeds what is necessary to recover its actual costs. Because the statute is intended to ensure cost recovery, USCIS should retain only the portion of the fee reasonably related to the work performed. If the signature deficiency is identified early in the adjudicative process, the filing fee should be refunded in full.

This IFR is simply another example of this administration’s continued effort to place obstacles before immigrants attempting to gain status in the U.S. USCIS’s clear refusal to implement an ability to cure signatures is another capricious way of not only closing off status to immigrants,

¹¹ *Id.* at 25482.

¹² *Id.* at 25484.

¹³ *Id.* at 25480.

¹⁴ *Id.* at 25480. Notably, this statement is no longer true as USCIS is currently charging asylum applicants an annual fee via H.R. 1.

¹⁵ *Id.* at 25484.

but is also collecting the fees paid and profiting off of immigrants while turning them away from any potential opportunity to gain status.

For all of these reasons, the DHS should withdraw the IFR.

Respectfully submitted,

The Immigrant Legal Resource Center