

Congress of the United States

Washington, DC 20515

August 14, 2026

Joseph B. Edlow
Director, U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Dr
Camp Springs, MD 20746

Dear Director Edlow,

We write today in strong opposition to the U.S. Citizenship and Immigration Services (USCIS) interim final rule titled, *Affirmative Asylum Referrals Without Interview*, released on July 28, 2026.¹ This rule allows asylum officers to refer affirmative asylum seekers directly to immigration court for removal proceedings without conducting an initial interview to determine if they are eligible for asylum or not. Instead, asylum officers can now base their decision solely on the asylum application and their discretion.

Since 1990, asylum seekers who affirmatively file for asylum in the U.S. have been granted a non-adversarial interview with an asylum officer. These initial interviews are critical to ensuring a full understanding of an individual's reasons for seeking asylum. This is especially important since many asylum seekers have survived persecution and violence and may struggle to share crucial details of what they have experienced in an adversarial setting; this is especially true for survivors of gender-based violence. Further, asylum seekers often prepare their applications without legal support or English translation services. Interviews give asylum officers the opportunity to fill in the gaps and obtain important context to evaluate each asylum seeker's credibility and give every claim full and fair consideration. Eliminating this step in the process will force asylum seekers into immigration court and removal proceedings likely while detained by this administration, and without full and fair consideration of their claim.

We are cognizant of the need to address your backlog of 1.4 million pending asylum applications.² However, the solution is to hire more asylum officers and provide more resources to USCIS to increase its processing capacity, not to cut corners and skirt vital parts of the process. Given the fact that Congress has given the administration \$240 billion for immigration enforcement, moves like this call into question the Department's ability to deploy those additional resources responsibly.³

This rule will not fix the asylum application backlog; it will exacerbate it. By passing on cases that could have been adjudicated by a USCIS officer conducting an interview, this proposed rule

¹ Affirmative Asylum Referrals Without Interview, 91 Fed. Reg. 47,101 (July 28, 2026)

² *Id.*

³ Pablo Manríquez, *Republicans Are Building a Quarter-Trillion Dollar Anti-Immigrant Machine With No Off Switch*, MIGRANT INSIDER (Jun. 9, 2026), <https://migrantinsider.com/p/republicans-are-building-a-quarter>.

will subject more people to detention and add more cases to an already overburdened Executive Office of Immigration Review (EOIR). Immigration judges and Immigrations and Customs Enforcement (ICE) trial attorneys will have to spend their time working on asylum cases that could have easily been adjudicated at the USCIS level. There are over 2.3 million pending asylum cases before immigration judges across the country.⁴ Simply adding to their caseload will do nothing to actually address the problem.

This rule is part of a troubling pattern of USCIS failing to do its job, putting people with pending immigration claims in legal jeopardy, and exploiting the situation to put people with legitimate benefits claims into detention and removal proceedings. In recent days, the administration has begun arresting people with pending immigration claims at airports, including those previously issued visas who timely filed benefits applications prior to the expiration of their status.⁵ USCIS's failure to adjudicate such applications in a timely manner is now being weaponized by ICE, which, in collaboration with the Transportation Security Administration, is arresting individuals as they attempt to fly domestically. This escalation will also increase the burden on immigration judges, compounding the impact of this rule.

The rule will discourage people fleeing persecution from self-reporting and following the process Congress created for seeking asylum. This change only applies to asylum seekers who apply for *affirmative* asylum, meaning that they are applying prior to being apprehended. They are proactively seeking legal status through the proper, legal channel and being punished for it. Punishing these asylum seekers is cruel and counterintuitive to ensuring they follow the proper process.

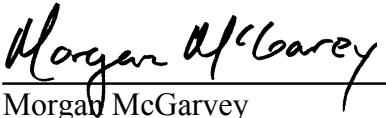
We also take issue with implementing an interim final rule with such sweeping and immediate impacts without first issuing the regulation as a proposed rule and going through the notice and comment process. This rule affects some of the most vulnerable among us, and implementing it without proper advanced notice or engagement with the public is irresponsible.

We urge you to withdraw this rule in full and assess alternative remedies to the asylum application backlog. Skirting the interview process will only result in a worse immigration court backlog and put asylum seekers in peril by unnecessarily returning them to the dangerous places they are fleeing.

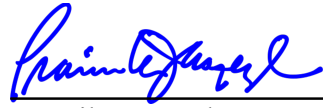
Sincerely,

⁴ Immigration Court Quick Facts, TRAC IMMIGRATION (2026), <https://tracreports.org/immigration/quickfacts/eoir.html>.

⁵ Hamed Aleaziz & Miriam Jordan, *ICE Arrests Surge at Airports, Opening New Front in Deportation Drive*, N.Y. TIMES (Jul. 28, 2026), <https://www.nytimes.com/2026/07/28/us/ice-arrests-airports-visa-overstay.html>.



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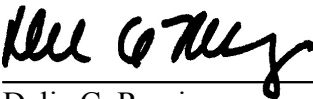
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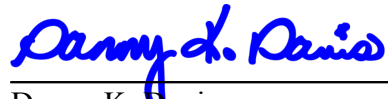
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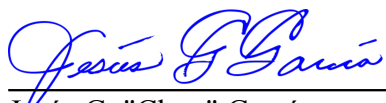
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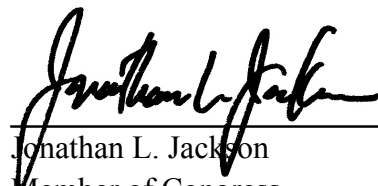
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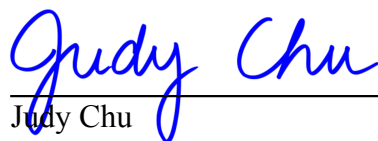
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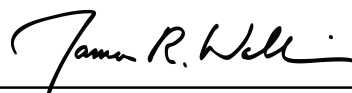
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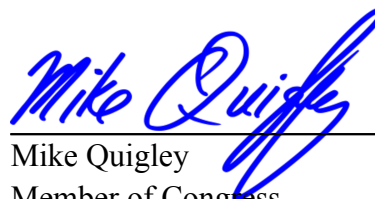
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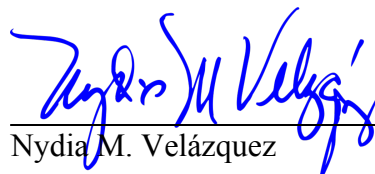
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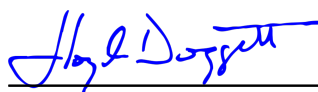
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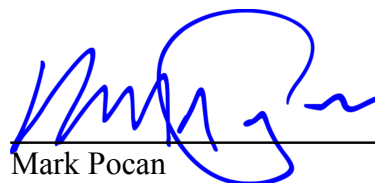
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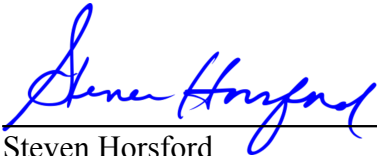
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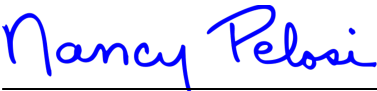
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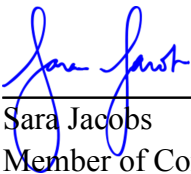
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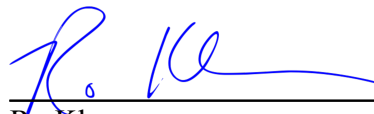
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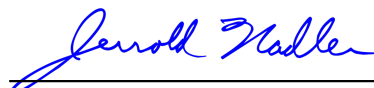
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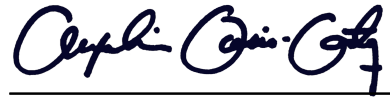
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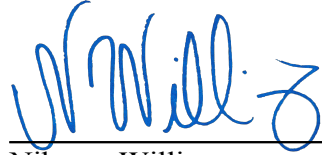
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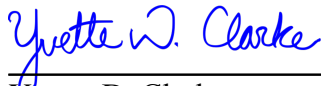
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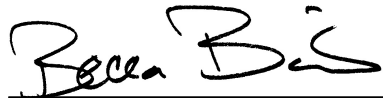
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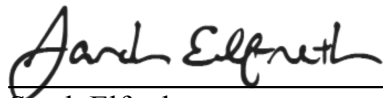
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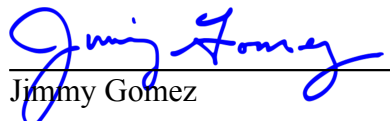
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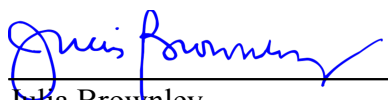
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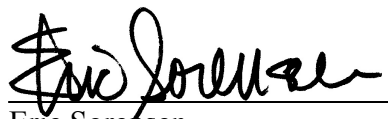
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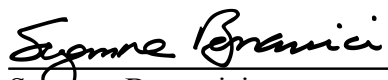
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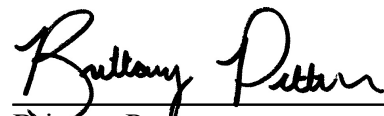
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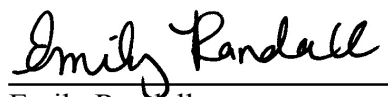
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