

Via email

March 5, 2020

Lauren Alder Reid
Assistant Director, Office of Policy
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 2204529

Paul Ray, Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

**RE: Request for 60-Day Comment Period for EOIR Proposed Rule on Fees:
EOIR Docket No. 18-0101**

Dear Assistant Director Reid and Acting Administrator Ray:

We, the undersigned organizations, write to respectfully request that the Department of Justice's Executive Office for Immigration Review (EOIR) extend the review period from 30 days to 60 days in connection with its recent proposal to adjust certain fees associated with filings for appeals to the Board of Immigration Appeals (BIA), applications for suspension of deportation or cancellation of removal, and motions to reopen or reconsider before the immigration courts or the BIA.

On February 27, 2020, EOIR announced a Notice of Proposed Rulemaking (NPRM) that would drastically increase fees for the following forms and filings:

1. Form EOIR-26 from \$110 to \$975, **a 786 percent increase**;
2. Form EOIR-29 from \$110 to \$705, **a 541 percent increase**;
3. EOIR-40 from \$100 to \$305, **a 205 percent increase**;
4. EOIR-42A from \$100 to \$305, **a 205 percent increase**;
5. EOIR-42B from \$100 to \$360, **a 260 percent increase**;
6. Form EOIR-45 from \$110 to \$360, **a 227 percent increase**;
7. Motion to reopen or reconsider with the immigration court from \$110 to \$145, **a 32 percent increase**; and
8. Motion to reopen or reconsider with the BIA from \$110 to \$895, **a 714 percent increase**.

The NPRM provides only 30 days for comment. We are writing to respectfully request a 60-day comment period, in keeping with common practices that provide the public a 60-day period to review and comment, particularly for rules that would have a significant impact on the public.

Executive Order 12866 states that agencies should allow “not less than 60 days” for public comment in most cases, in order to “afford the public a meaningful opportunity to comment on any proposed regulation.” Executive Order 13563 states that “[t]o the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days.”

As indicated in EOIR’s press release of February 27, “it has been 33 years since EOIR last conducted a thorough review of the costs and appropriateness of its fee-based filing.” Since EOIR has not changed its fees in over three decades, it is imperative that the public be granted sufficient time to understand the methodology and rationale for such substantial increases and the mechanisms by which EOIR proposes to retain access to the immigration system for those who are unable to pay.

The proposed fee changes will have grave consequences for people seeking appeals in their immigration cases and individuals who are eligible for relief such as cancelation of removal. If people are unable to appeal their cases through the BIA because they lack sufficient funds, they may be swiftly deported to some of the most dangerous places in the world. Further, this proposal has significant implications on access to due process and justice, since cases cannot be appealed to the federal circuit court for review until all administrative remedies through EOIR have been exhausted. Given these significant consequences, the undersigned do not see a justification for deviating from the 60-day standard for comment periods, as designated in EO 12866 and EO 13563.

In its proposed rule, EOIR provides no justification whatsoever for deviating from these executive orders. We request this extension of the comment period in order to allow our organizations and the public adequate time to review the proposed fee changes and provide meaningful feedback. A 60-day comment period would allow more organizations and affected groups to carefully examine the changes and weigh in, in turn providing EOIR with more meaningful information to better address and consider the scope of related issues, assess unintended consequences, and prevent potential waste of resources.

Given the nature of the proposals and populations involved, we believe that these unique and expansive changes warrant additional time for review and comment. We thank you for your consideration of our request. Please contact Jill Marie Bussey at jbussey@cliniclegal.org for any questions or concerns.

Sincerely,

American Friends Service Committee
American Immigration Lawyers Association
Americans for Immigrant Justice, Inc.
Arizona Palestine Solidarity Alliance
Asian Americans Advancing Justice - Atlanta
Asian Pacific Institute on Gender-Based Violence
ASISTA
Asylum Seeker Advocacy Project
California Collaborative for Immigrant Justice
Caminando Juntos - Presentation Sisters Hispanic Ministry
Campesinos Sin Fronteras
Capital Area Immigrants' Rights (CAIR) Coalition
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Catholic Legal Immigration Network, Inc.
Catholic Legal Services, Inc., Archdiocese of Miami
Catholic Migration Services
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Victims of Torture
Center Global
Christian Reformed Church Office of Social Justice
Church World Service
Citizenship News
Coalición de Derechos Humanos
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition of African Communities (AFRICOM)
Coalition on Human Needs
Coalition to Abolish Slavery & Trafficking (Cast)
Colorado Immigrant Rights Coalition (CIRC)
Columbia Law School Immigrants' Rights Clinic
Community Legal Services in East Palo Alto
Conference of Presentation Sisters
Congregation of Our Lady of the Good Shepherd, U.S. Provinces
Emerald Isle Immigration Center
End Domestic Abuse Wisconsin
Entre Hermanos
Equal Voice Network, RGV
Equality California
Franciscan Action Network
Freedom Network USA
Harvard Immigration and Refugee Clinical Program
Human Rights First
Human Rights Watch
Ignatian Solidarity Network

Illinois Coalition for Immigrant and Refugee Rights
Immigrant Connection at Heritage Church/ Esperanza Legal Assistance Center
Immigrant Legal Resource Center
Immigration Center for Women and Children
Immigration Equality
Intercommunity Justice and Peace Center
International Refugee Assistance Project
Iowa Coalition Against Domestic Violence
Jobs With Justice Education Fund
Kids In Need of Defense (KIND)
Legal Aid Justice Center
Lutheran Immigration and Refugee Service
Michigan United
National Advocacy Center of the Sisters of the Good Shepherd
National Immigrant Justice Center
National Immigrant Women's Advocacy Project
National Immigration Forum
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
Nebraska Coalition to End Sexual and Domestic Violence
NETWORK Lobby for Catholic Social Justice
New Mexico Immigrant Law Center
New York Immigration Coalition
Oasis Legal Services
OCCORD (Orange County Communities Organized for Responsible Development)
Pennsylvania Immigration and Citizenship Coalition
Pennsylvania Immigration and Citizenship Coalition (PICC)
Safe Horizon
San Diego Immigrant Rights Consortium
San Joaquin College of Law - New American Legal Clinic
Self-Help for the Elderly
Service Employees International Union (SEIU)
Silver State Equality-Nevada
Sisters of Mercy of the Americas - Justice Team
Sisters of the Presentation
Southern Poverty Law Center
Tahirih Justice Center
The Florence Immigrant & Refugee Rights Project
The Greater Portland Immigrant Welcome Center
U.S. Committee for Refugees and Immigrants
UnidosUS
Unitarian Universalist Service Committee

Wilson Immigration

World Relief

Young Center for Immigrant Children's Rights