

Congress of the United States

Washington, DC 20515

June 22, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20016

Dear President Biden and Secretary Mayorkas,

We write to urge you to consider providing, on a case-by-case basis, humanitarian parole for migrants who entered the United States during the implementation of Title 42, which lasted from March 2020 to May 2023. Due to significant immigration court backlogs, many asylum seekers will not have the opportunity to apply for asylum for a significant period of time. As a result, through no fault of their own, they remain ineligible to work, making them unable to provide for their families and contribute to our economy. Many cities and states across America are working to welcome asylum seekers and doing everything in their power to provide support to them. Still, local governments need more help and resources to efficiently meet the needs of people coming into our communities, as well as the needs of employers desperately seeking workers. The use of humanitarian parole would expedite access to employment authorization documents (EAD). In addition, setting up welcome centers and mobilizing additional USCIS and DHS personnel to cities and states processing higher numbers of migrants would greatly help to ensure migrants are aware of the legal pathways available to them.

The parole authority under the *Immigration and Nationality Act (INA)* allows individuals to enter the United States for a period of time for urgent humanitarian reasons. It has been used extensively by both Democratic and Republican administrations since the Eisenhower administration. The parole process would allow the Department of Homeland Security (DHS) to thoroughly vet each parolee. By granting parole to asylum seekers, we can prioritize their safety and well-being while ensuring they comply with any requirements set forth by DHS.

Under Section 208(d)(2) of the Immigration and Nationality Act (INA), asylum seekers are not permitted to obtain work authorization until their asylum applications have been pending for at least 180 days. Due to the lengthy immigration court backlogs, many individuals are unable to even apply for asylum to commence the 180 days wait period required by statute. This keeps individuals who want to work from doing so and forces them to rely on communities, local governments, and non-profits for housing, food, and health services. Furthermore, there are long delays in processing times for employment authorization. By assessing eligibility for humanitarian parole, approved applicants would obtain faster access to employment authorization documents (EADs), easing the burden on communities, NGOs, and local

governments and allowing individuals to sustain themselves and their families in a time of record low unemployment where there are significant job openings. We are experiencing a period where many businesses are suffering from labor shortages, and by expediting this process, we can also provide a boost to local and small businesses.

Over the past year, cities like New York have welcomed thousands of migrants as they arrived. It is places like New York City that would have the highest potential number of applicants for parole and EADs. In addition, detailing additional immigration judges to cities with increased migrant populations would greatly help to address the asylum backlog.

We strongly urge the administration to implement the two steps mentioned above to start mitigating this crisis:

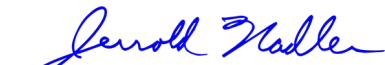
1. **Assess eligibility of migrants who entered the country during implementation of Title 42 – which lasted from March 2020 to May 2023 – for parole to expedite processing of Employment Authorization Documents (EADs).**
2. **Mobilize USCIS personnel and Immigration Judges to timely adjudicate parole and work authorization applications from cities and states with higher migrant numbers.**

Thank you for your attention to this urgent matter, and we look forward to your response.

Sincerely,



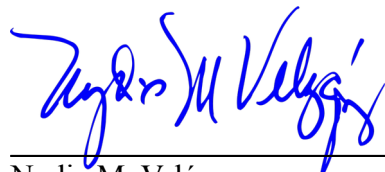
Gregory W. Meeks
Member of Congress



Terrold Nadler
Member of Congress



Hakeem Jeffries
Member of Congress



Nydia M. Velázquez
Member of Congress



Brian Higgins
Member of Congress



Yvette D. Clarke
Member of Congress



Paul D. Tonko
Member of Congress



Grace Meng
Member of Congress



Adriano Espaillat
Member of Congress



Joseph D. Morelle
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



Ritchie Torres
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Dan Goldman
Member of Congress



Patrick K. Ryan
Member of Congress



U.S. Citizenship
and Immigration
Services

November 17, 2023

The Honorable Gregory Meeks
U.S. House of Representatives
Washington, DC 20515

Dear Representative Meeks:

Thank you for your June 22, 2023 letter to the President of the United States and Secretary of the Department of Homeland Security (DHS) raising concerns regarding challenges facing recent asylum seekers and their ability to secure employment authorization. I am responding on behalf of the Department and apologize for the delay.

You specifically note that noncitizens who entered the United States during the enforcement of the Centers for Disease Control and Prevention's Title 42 public health Order are facing challenges applying for asylum because of backlogs at the immigration court and delayed processing times for employment authorization applications by U.S. Citizenship and Immigration Services (USCIS). In response, you have requested that DHS consider exercising its parole authority along with expedited processing of employment authorization requests.

We appreciate your suggestion to expand DHS's use of its parole authority for asylum seekers who entered the United States during the use of Title 42 authority to allow for faster access to work authorization. As you note, asylum applicants are not statutorily eligible for employment authorization until their asylum application has been pending for 180 days, and this 180-day waiting period for employment authorization is one that only Congress can change. However, to ensure that asylum applicants may apply for employment authorization as close to the end of the 180-day waiting period as possible, USCIS regulations allow for asylum applicants to submit their applications for employment authorization at 150 days – which applies to all asylum applicants, regardless of whether their application is pending in immigration court or before USCIS (*See* 8 C.F.R. § 208.7(a)). Initial applications for employment authorization by asylum applicants are typically processed in less than one month. There is no fee for asylum applicants to file their initial application for employment authorization.

Separately, individuals paroled into the United States pursuant to recently launched lawful pathways programs, including entrants through the parole processes for Cubans, Haitians, Nicaraguans, and Venezuelans (CHNV), or who are paroled after receiving a CBP One App appointment, are immediately eligible to apply for employment authorization (EAD). When applying for an EAD pursuant to one of these categories, an applicant will need to pay a fee or, where unable, may seek a fee waiver due to receipt of a means tested benefit, income at or below

150% of the federal poverty guidelines or financial hardship, including such considerations as unemployment or homelessness.

Additionally, USCIS has implemented several initiatives to make the process of applying for employment authorization and obtaining an EAD easier and more efficient. In 2022, USCIS updated the maximum validity period for initial and renewal EADs for employment authorization under the parole and deferred action categories (category (c)(11) and category (c)(14), respectively) to the end date of the authorized parole or deferred action period.¹ Previously, the validity period for initial and renewal EADs under categories (c)(11) and (c)(14) were sometimes shorter than the duration of the underlying period of stay authorized, requiring some applicants to file multiple employment authorization applications to cover their entire period of parole or deferred action. In late September, USCIS announced that it was increasing the maximum validity to five years for initial and renewal EADs for individuals who are employment authorized incident to status, including those admitted as refugees and granted asylum, as well as for asylum applicants.²

USCIS has recently sent email and SMS notifications to individuals reminding them that they are eligible to file for employment authorization and providing information on how to file for an EAD. These messages were shared with individuals who were paroled into the United States after a CBP One appointment as well as to CHNV parolees and individuals whose affirmative asylum applications have been pending for 150 days or more. In addition, USCIS has issued a flyer for CBP to provide to newly paroled individuals that describes how to apply for employment authorization and provides links to the USCIS website and form. USCIS has also shared this flyer with local NGOs and stakeholders and has translated the flyer into multiple languages.

Finally, DHS is coordinating with the City and State of New York to identify ways we can continue to maximize our support for local communities hosting recently arrived migrants, while enforcing the law and returning or removing those without a legal basis to remain in the country. The Administration has delivered \$140 million to New York in federal grant funding, and provided on-the-ground immigration services to migrants who are eligible to apply for a work permit but have not yet done so. In recent weeks, DHS deployed personnel to New York City to educate thousands of migrants on the immigration system. Together with our partners, we stood up a remote mobile unit to serve as an intake center for work permit applications, and were able to process nearly 2,000 individuals through these in-person intake and biometric services, significantly increasing the number of work permits submitted in New York. Plans are in place to continue this effort, pending further coordination with the City and State.

USCIS recognizes the importance to these individuals and the communities they reside in that they have access to employment as soon as possible after arrival. For this reason, USCIS is

¹ USCIS Updates Guidelines on Maximum Validity Periods for New Employment Authorization Documents for Certain Applicants (Feb. 07, 2022), available at: <https://www.uscis.gov/newsroom/alerts/uscis-updates-guidelines-on-maximum-validity-periods-for-new-employment-authorization-documents-for>.

² USCIS Increases Employment Authorization Document Validity Period for Certain Categories (Sept. 27, 2023), available at: <https://www.uscis.gov/newsroom/alerts/uscis-increases-employment-authorization-document-validity-period-for-certain-categories>.

The Honorable Gregory Meeks

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also prioritizing efforts to identify additional steps it can take as soon as possible to efficiently and quickly process employment authorization and, if submitted, accompanying fee waivers.

Thank you again for your letter and interest in this important issue. The cosigners of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director