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April 24, 2026

Submitted via Regulations.gov

Secretary Markwayne Mullin
U.S. Department of Homeland Security
Washington, DC 20528

RE: USCIS-2025-0370; Employment Authorization Reform for Asylum Applicants

Dear Secretary Mullin:

On behalf of the approximately 3 million members of the National Education Association (NEA), comprised of teachers and faculty, school nurses, counselors, and education support professionals, we submit the following response to the Department of Homeland Security's (the Department) Notice of Proposed Rulemaking (NPRM) published in the Federal Register on February 23, 2026, proposing to significantly restrict asylum applicants' ability to work in the United States. **NEA strongly opposes these changes as they will negatively impact educators' employment, exacerbate the educator shortage in our public schools, and hamper children's access to adequate nutrition, reliable health care, and stable housing.**

More than 2 million asylum applicants were legally working in the United States as of mid-2025,¹ paying significant federal taxes.² Applications for asylum in the U.S. must be based on persecution or a well-founded fear of persecution in one's country of origin, based on race, religion, nationality, political opinion or membership in a particular social group.³ The U.S. asylum system overwhelmingly serves individuals fleeing persecution in Latin America, the Caribbean, Africa, the Middle East, and Asia.⁴

¹ [2+ MILLION WORKERS, \\$100+ BILLION IMPACT – WORKPERMITS.US](#) (WorkPermits.US March 2026); Jeanne Batalova, [Article: Frequently Requested Statistics on Immigr. | migrationpolicy.org](#) (March 12, 2026); [PEOPLE SEEKING ASYLUM ARE CONTRIBUTING TO THE WORKFORCE](#) (fwd.us Jan. 31, 2026).

² Based on asylum applicants making up 18-19% of all undocumented immigrants in U.S., and \$89.8 billion in taxes paid by all undocumented immigrants each year. American Immigration Council, [Map the Impact](#).

³ U.S. Citizenship and Immigration Services, [Asylum](#).

⁴ See, e.g., Jeanne Batalova, [Refugees and Asylees in the United States](#), Migration Pol'y Inst. (Jan. 8, 2026) (Top countries of origin for asylees in FY 2023 include: Afghanistan, China, Venezuela, El Salvador, India, Guatemala, Honduras, Russia, Turkey, and Colombia).

In FY 2025, an additional 1 million asylum applications were submitted,⁵ demonstrating that an even greater number of individuals will be prevented from working by this proposed rule, if their employment authorization has not yet been processed. 1.5 million asylum applications were pending as of June 2025, but U.S. Citizenship and Immigration Services (USCIS) has already paused issuing decisions on asylum applications as of late 2025, causing asylum applicants to potentially wait years for a decision on their application.

This proposed rule would essentially eliminate the ability of asylum applicants to apply for an employment authorization document (EAD) to enable them to work legally in the U.S while their asylum application is pending. The most problematic provisions would increase the wait time from 150 days to 365 days after the submission of their complete asylum application before being allowed to apply for an EAD, and would allow the government up to 180 days to process new EAD applications (compared to current 30-day requirement), which the government can extend even further for “additional background checks or vetting” reasons.⁶

Access to employment authorization would be even further delayed by the proposed pause in the acceptance of any new EAD applications so long as the average processing time for submitted affirmative asylum applications exceeds 180 days over a consecutive 90-day period. The proposed rule also bars an EAD for any applicant who applied for asylum more than one year after their entry into the United States, which would bar educators and students from working who have entered the U.S. through other legal avenues, such as temporary visas and Temporary Protected Status (TPS).⁷

The proposed eligibility changes would also significantly increase the complexity of preparing and submitting asylum-based work permit applications. These added requirements would increase the time and resources needed to prepare each application and place new burdens on legal service providers and community organizations that assist asylum applicants.

Layered on top of these new barriers to work permit eligibility, the proposed rule would make the approval of both initial and renewal work permit applications discretionary. Under current regulations, if an asylum applicant meets the eligibility requirements, USCIS must grant work authorization.⁸ Under the NPRM, however, USCIS could deny an application in its sole discretion, without identifying any specific factors guiding that discretion.⁹

⁵ [Article: Frequently Requested Statistics on Immigr.. | migrationpolicy.org.](#)

⁶ 91 Fed. Reg. at 8619–20, 8699 (“USCIS will have 180 days to adjudicate an initial application for employment authorization, except for those applications requiring additional review for background checks or vetting.”).

⁷ See 91 Fed. Reg. at 8652–53 (acknowledging that former TPS, CHNV parole, and Deferred Action for Childhood Arrivals holders often apply for asylum).

⁸ See 8 C.F.R. § 274.a13(a)(1) (“The approval of applications filed under 8 CFR 274.a12(c), *except for 8 CFR 274a.12(c)(8)*, are within the discretion of USCIS.” (emphasis added)).

⁹ 91 FED. REG. at 8619.

The proposed rule would make it effectively impossible for asylum applicants to work legally while their claims are pending. The proposed changes would impose severe and predictable harms on asylum applicants, their families, their employers and coworkers, and the communities in which they live and work. The NPRM also abandons more than three decades of settled policy without adequately addressing the significant reliance interests of asylum applicants, employers, and other stakeholders. DHS likewise fails to consider how the NPRM interacts with recent policies that already restrict and increase the costs of asylum and employment authorization, together effectively barring many asylum applicants from working for years. Finally, by preventing lawful work while an asylum application is pending, the NPRM would disproportionately harm people of color, who make up the majority of asylum applicants in the United States. DHS should rescind the NPRM in its entirety.

This proposed blockage of the ability to work while an application for asylum is pending will impact a significant number of qualified workers and their children and will harm public education. Of the more than 2 million asylum applicants legally working in the U.S. in 2024, approximately 61,000 worked in education services.¹⁰

Future asylum applicants, including those who are now applying for asylum as their previous lawful statuses have been terminated, are likely to include individuals qualified to work in our K-12 schools and on college campuses if allowed to do so. Most positions in education require at least a bachelor's degree,¹¹ and approximately 1 million of the working asylum applicants hold a bachelor's degree or higher degree.¹²

Of the 3.2 million K-12 students who live in household headed by an unauthorized immigrant parent,¹³ it is estimated that more than 600,000 (19%) are affected. Nearly 100,000 higher education students who are unauthorized are seeking asylum.¹⁴ Our governmental policies should enable and encourage asylum applicants to work legally to support their children and themselves.

Anticipated Effects of the Proposed Rule on Educators Who Are Asylum Applicants

Asylum applicants seeking to work in education will effectively be barred from doing so by this proposal, by significantly lengthening the time to wait before applying for an EAD work permit to 365 days while barring applications more than one year after arrival, as well as lengthening the work permit approval time from 30 days to 180 days and pausing the acceptance of EAD applications for an unknown period of time. These changes will delay or effectively prevent asylum applicants from becoming teachers, aides, and other education support professionals in

¹⁰ [2+ MILLION WORKERS, \\$100+ BILLION IMPACT – WORKPERMITS.US](#)

¹¹ U.S. Bureau of Labor Statistics, *Occupational Outlook Handbook*.

¹² [Article: Frequently Requested Statistics on Immigr.. | migrationpolicy.org](#).

¹³ Steven A. Camarota, et al., *MAPPING THE IMPACT OF IMMIGRATION ON PUBLIC SCHOOLS* (Center for Immigration Studies 2023).

¹⁴ Jenn Hatfield, Q & A: HOW PEW RESEARCH CENTER ESTIMATES THE NUMBER OF UNAUTHORIZED IMMIGRANTS LIVING IN THE U.S.; Steven A. Camarota, et al., *MAPPING THE IMPACT OF IMMIGRATION ON PUBLIC SCHOOLS* (Center for Immigration Studies 2023).

both K-12 education and higher education. Instead of potentially working in education, asylum applicants will face increased vulnerability to exploitative unlawful labor markets and unsafe living conditions.

An inability to lawfully work in the U.S. will have a significant negative impact on asylum applicants and their families. As the court recognized in *Rosario v. USCIS*, one of the “chief purposes” of adopting the 30-day asylum EAD processing timeframe was “to ensure that bona fide asylees are eligible to obtain employment authorization as quickly as possible.”¹⁵ The 365-day bar from even applying for an EAD will have an even more devastating effect. The government even acknowledges that “this rule may negatively impact potentially meritorious asylum applicants who may decide not to file for asylum because they cannot afford to wait the extended period before applying for employment authorization,” and estimates that the lost compensation to affected asylum applicants could range from \$34.6 billion to \$126.6 billion annually.¹⁶

In addition to losing the ability to support themselves and their families in the immediate sense, applicants who cannot work lawfully will suffer a loss of longer-term earnings and economic security, self-esteem, and social connectedness.¹⁷ Moreover, because employment often provides the only affordable route to health care coverage in the United States, the inability to work negatively impacts applicants’ physical and mental health.¹⁸ Unemployment is also associated with a rise in the infant mortality rate, a decrease in parent nurturance of children, and drug abuse.¹⁹

Anticipated Effects of the Proposed Rule on Public Education

With all the proposed delays, new asylum applicants will be delayed or unable to work at educational institutions in need of their talents, compounding the serious teacher shortage in the United States. As of July 2025, it was estimated that more than 400,000 teaching positions were either unfilled or filled by teachers not fully certified for their assignments, representing about 1 in 8 of all teaching positions nationally.²⁰ Vacancies are most prevalent in high-minority and high-poverty schools.²¹

¹⁵ 365 F. Supp. 3d 1156 (W.D. Wash. 2018).

¹⁶ 91 FED. REG. at 8621.

¹⁷ Xuebing & Ko Ling Chan, *The Associations of Decent Work with Wellbeing and Career Capabilities: A Meta-Analysis*, 14 FRONTIERS IN PSYCH. 1068599 (2023); Gerry Rodgers, *Decent Work as a Goal for the Global Economy*, TRAINING, PRODUCTIVITY AND DECENT WORK (International Labor Organization 2002); Wiji Arulampalam, *Is Unemployment Really Scarring? Effects of Unemployment Experiences on Wages*, 111 THE ECONOMIC J. 585 (2001).

¹⁸ Jim Been, et al., *The Short-Run Effects of Unexpected Job Loss on Health*, 12 AM. J. OF HEALTH ECON. 35 (2026), <https://doi.org/10.1086/731303>; Preethi Pratap, et al., *Public Health Impacts of Underemployment and Unemployment in the United States: Exploring Perceptions, Gaps and Opportunities*, 18 INT. J. ENVIRON. RES. PUBLIC HEALTH 10021 (2021); Jessica Pearlman, *The Consequences of Job Displacement for Health: Moderating Influences of Economic Conditions and Educational Attainment*, 52 SOC. SCI. RES. 570 (2015); R.L. Jin, et al., *The Impact of Unemployment on Health: A Review of the Evidence*, 153 CANADIAN MEDICAL ASS’N J. 529 (1995).

¹⁹ Donald W. Riegle, *The Psychological and Social Effects of Unemployment*, 37 AMERICAN PSYCH. 1113 (1982).

²⁰ Learning Policy Institute, *AN OVERVIEW OF TEACHER SHORTAGES: 2025* (July 16, 2025).

²¹ *THE FEDERAL RESPONSE TO TEACHER SHORTAGE IMPACTS ON STUDENTS WITH DISABILITIES* 2, 26 (U.S. Commission on Civil Rights Sept. 2025).

Educator shortages have significant negative impact on student learning.²² A 2025 report of the U.S. Commission on Civil Rights recognized that the teacher shortage has “serious and far-reaching consequences” for students with disabilities in particular.²³

The shortages in the educator workforce go beyond teachers. Public schools are also facing shortages of school bus drivers and school nutrition staff, and of other education support professionals. National data show that school-bus-driver employment remains 9.5% below 2019 levels, with 21,200 fewer school bus drivers in August 2025 than in August 2019.²⁴ 80% of school leaders report that bus-driver shortages negatively impact transportation operations.²⁵ Many schools also face struggles in staffing food service positions, with 90% of school nutrition directors in 2023-2024 reporting staffing shortages.²⁶ Additionally in 2024, 45% of school administrators anticipated paraeducator vacancies, 36% believed they would have custodial vacancies, and 13% anticipated clerical vacancies.²⁷

NEA recognizes that immigrant workers, including asylum applicants, play a vital role in filling these positions, ensuring that students are educated in an appropriately staffed public school. If the asylum applications who are qualified and seek to work in education are denied an EAD, the educator shortage outlined above will only be compounded.

Anticipated Effects of the Proposed Rule on Students

NEA members engage with K-12 students in our nation’s public schools every day. Our members educate the children who come to school hungry, who miss class because of an untreated illness, or go absent as their families move from place to place due to unstable housing. NEA members know the obstacles their students face, which only multiply if their parents are unable to work. The proposed rule’s barrier to legal work would worsen the chances of academic success for children of asylum applicants.

Every child deserves to grow and thrive. Educators can readily attest to the negative effects of hunger, unmet health care needs, poverty, and destabilized housing on students and their ability to learn. There can be little question that the proposed rule’s restriction of asylum applicants’ ability to lawfully support their families will stifle their children’s learning and development.

²² Edustaff, [TEACHER SHORTAGES IN 2025: WHAT THE DATA REVEALED AND WHAT 2026 WILL DEMAND](#) (Feb. 3, 2026).

²³ [THE FEDERAL RESPONSE TO TEACHER SHORTAGE IMPACTS ON STUDENTS WITH DISABILITIES](#) 4.

²⁴ Economic Policy Institute, <https://www.epi.org/blog/the-school-bus-driver-shortage-has-improved-slightly-but-continues-to-stress-k-12-public-education/>.

²⁵ K-12 Dive, <https://www.k12dive.com/news/school-transportation-challenges-impacting-academics-attendance/759195/>.

²⁶ K-12 Dive, <https://www.k12dive.com/news/school-nutrition-staffing-shortage-solutions/706118/>; see also UC Berkeley Labor Center, HUNGRY FOR GOOD JOBS: FOOD SERVICE WORKERS IN PUBLIC SCHOOLS, <https://laborcenter.berkeley.edu/wp-content/uploads/2024/09/Hungry-for-Good-Jobs.pdf>.

²⁷ School Pulse Panel March, 2024.

Moreover, the impacts of barriers to employment on health, hunger, and housing do not occur independently; they compound one another.²⁸ A child who is hungry is more likely to become ill; a child who is ill misses school; a child who is frequently absent due to housing instability or sickness falls further behind academically.

The proposed rule, combined with this administration's other proposed restrictions on supports for health care, nutrition and housing,²⁹ would dramatically expand the number of children at risk of experiencing these overlapping forms of deprivation. These unworkable conditions will place school systems under additional strain, undermining the overarching goals of the education system.

Impact on Children's Health

Delaying or preventing asylum applicants from pursuing lawful employment will reduce their access to health insurance and care. Having health insurance positively impacts educational attainment.³⁰ When children lack routine preventive care or treatment for chronic conditions, they experience more frequent and longer absences from school, which directly reduces their instructional time and widens existing achievement gaps.³¹

Without access to health insurance, schools frequently become the default providers of basic health support, stretching already limited resources. Untreated medical issues, such as asthma, dental pain, untreated infections, or vision impairments, can lead to difficulty concentrating, increased behavioral challenges, and overall reductions in academic performance.³² By reducing parents' access to health insurance through their employer, the proposed rule would shift avoidable health burdens onto schools that lack the resources to provide those services.

Impact on Children's Food Security

By diminishing asylum-seeking parents' opportunity for employment, the proposed rule threatens the food security of millions of children.³³ Access to a healthy diet during early childhood is critical to developing the skills needed for success in school, including memory, emotional stability, and social skills. By barring their parents' ability to work, children can be expected to experience poorer health and developmental delays.³⁴

²⁸ Urban Institute., [HOUSEHOLDS FACED PERSISTENT CHALLENGES AFFORDING FOOD IN 2024](#) (2024).

²⁹ See Department of Homeland Security's (the Department) Notice of Proposed Rulemaking (NPRM) published in the Federal Register on November 19, 2025, proposing to rescind the 2022 Biden Administration Public Charge Rule.

³⁰ Sarah Cohodes et al., [The Effect of Child Health Insurance Access on Schooling: Evidence from Public Insurance Expansions](#) 4, 5 & 23 (Nat'l Bureau of Econ. Research, Working Paper No. 20178, 2014).

³¹ Nina E. Hill, et al., [Chronic Conditions and Food Insecurity in U.S. Children](#), 8(9) JAMA NETWORK OPEN e2533953 (2025).

³² C.E. Basch, [Healthier Students are Better Learners: High-Quality, Strategically Planned, and Effectively Coordinated School Health Programs must be a Fundamental Mission of Schools to Help Close the Achievement Gap](#), 81 THE J. OF SCHOOL HEALTH 650 (2011).

³³ Siwen Zhou, et al., [Food Insecurity and Unemployment among Immigrants in the United States](#), AM. J. OF AGRICULTURAL ECONOMICS 1 (2026).

³⁴ Martha Bailey et al., [Is the Social Safety Net a Long-Term Investment? Large-Scale Evidence from the Food Stamps Program](#), 91 REV. ECON. STUD. 1291 (2024); Ettinger de Cuba et al., [Punishing Hard Work: The Unintended Consequences of Cutting SNAP Benefits](#), CHILDREN'S

Food insecurity affects a child’s physical health, emotional regulation, and readiness to learn.³⁵ NEA’s members routinely observe that hungry students struggle with attention, memory, stamina, and self-regulation, placing both them and their peers at risk of poorer educational outcomes. Increased behavioral disruptions or the need for additional remediation can disrupt classroom instruction and divert time and resources away from other students.

This proposal will exacerbate inequities among students and school districts that serve them, disproportionately affecting schools serving high numbers of students from immigrant families. NEA’s members are already reporting rising levels of student hunger during the day, and the proposed rules in combination would further increase this burden, forcing schools to fill gaps with limited school meal resources.

These consequences extend beyond the classroom. Food insecurity is associated with higher long-term public costs related to special education services, grade repetition, and decreased adult earnings.³⁶ By preventing families from supporting themselves, the proposed rule would erode decades of progress in supporting children’s healthy development.³⁷

Impact on Children’s Housing

An asylum applicant’s inability to work will greatly increase the risk of their children living in unsafe and overcrowded housing. Limiting asylum applicants’ ability to work will increase the risk of housing instability, which is associated with multiple negative educational impacts, including frequent absences, frequent school changes, lower test scores, slower grade progression, and higher school dropout rates.³⁸

A lack of stable housing also creates barriers to completing homework, maintaining sleep routines, and managing stress. These environmental strains translate into behavioral challenges, lower engagement, and long-term academic struggles.

Conclusion

The NEA respectfully submits these comments for consideration. Asylum applicants require the opportunity to work while they await a decision on their applications, including working in

HEALTH WATCH (Dec. 2013); Steven Carlson and Zoe Neuberger, [WIC Works: Addressing the Nutrition and Health Needs of Low-Income Families for 40 Years](#) (Center on Budget and Policy Priorities 2017).

³⁵ Emma G. Casey & Adam Winsler, [Impacts of Food Insecurity on Child Development: Strengthening the Role of Childcare](#), 17 NUTRIENTS 2427 (2025).

³⁶ Catheryn A. Orihuela, [Associations of Household Food Insecurity with Academic Outcomes in Early Adolescents](#), 93 THE JOURNAL OF SCHOOL HEALTH 883 (2023).

³⁷ Craig Gundersen and James P. Ziliak, [Food Insecurity and Health Outcomes](#), 34 HEALTH AFFAIRS No. 11 (November 2015); John T Cook, et al., [Food Insecurity is Associated with Adverse Health Outcomes Among Human Infants And Toddlers](#), 134 THE J. OF NUTRITION 1432 (2004).

³⁸ Martha Galvez & Jessica Luna, [HOMELESSNESS AND HOUSING INSTABILITY: THE IMPACT ON EDUCATION OUTCOMES](#), (Urban Institute 2014).

education where their skills are so desperately needed. In addition, children of asylum applicants need the fundamental security provided by adequate health care, food, and housing that come with their caregivers' employment. NEA members know all too well that *all* children must have access to these essentials so they can support themselves and their families, and their children can meaningfully engage at school and reach their greatest potential.

For all the above reasons, we urge you to withdraw this harmful proposed rule in its entirety. Please do not hesitate to contact me or Daaiyah Bilal-Threats, Senior Director for Policy, at DBilal@nea.org, should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Rebecca S. Pringle". The signature is written in a cursive style with a large, looping initial "R".

Rebecca S. Pringle
President
National Education Association