



ASSOCIATION OF  
PUBLIC &  
LAND-GRANT  
UNIVERSITIES

February 16, 2024

Carol Cribbs  
Deputy Chief Financial Officer  
U.S. Citizenship and Immigration Services  
5900 Capital Gateway Drive  
Camp Springs, MD 20746

RE: DHS Docket No. USCIS 2021-0010

Dear Ms. Cribbs,

As president of the Association of Public and Land-grant Universities (APLU), I write to underscore concerns regarding the final rule from U.S. Citizenship and Immigration Services (USCIS) published in the *Federal Register* on January 31, 2024, Docket No. USCIS 2021-0010 and to request definitional clarifications to ensure full inclusion of public universities in relevant fee exemptions.

The final rule as published exempts “nonprofit” employers from paying the Asylum Program Fee, paid by employers filing either a Form I-129, Form I-129CW, or Form I-140. We thank USCIS for this appropriate exemption but must register strong concern that clarification is needed to fully encompass public institutions of higher education. The definition of “nonprofit” included in the rule would exclude many public universities from utilizing this exemption, creating a situation of some schools covered and others not. APLU asks that USCIS clarify the definition of “nonprofit” in the final rule to include any college or university considered a political subdivision, agency, or instrumentality of a state to be eligible to receive the waiver from the Asylum Program Fee.

APLU greatly appreciates USCIS’ consideration of the higher education community’s request in our March 2023 comments on the proposed rule to exempt institutions of higher education from the Asylum Program Fee. As noted in our comments, the sudden increase in fees will have a significant budgetary impact on public research universities, funds that would otherwise be spent on key academic and research activities. In the final rule, USCIS notes that nonprofits are “organizations that do not pursue monetary gain or profit must use funds for USCIS fees that they would otherwise use in pursuit of public and private services,” activities that apply broadly to public research universities.

APLU is a membership organization that fosters a community of university leaders collectively working to advance the mission of public research universities. The association’s U.S. membership consists of more than 230 public research universities, land-grant institutions, state university systems, and affiliated organizations spanning across all 50 states, the District of Columbia, and six U.S. territories.

The association and its members collectively focus on increasing access, equity, completion, and workforce readiness; promoting pathbreaking scientific research; and bolstering economic and community engagement. Annually, its U.S. member campuses enroll 4.5 million undergraduates and 1.3 million graduate students, award 1.3 million degrees, employ 1.2 million faculty and staff, and conduct \$48.5 billion in university-based research.

The definition of “nonprofit” in the final rule includes “organizations organized as tax exempt under the Internal Revenue Code of 1986, section 501(c)(3), 26 USC 501(c)(3) or governmental research organizations as defined under 8 CFR 214.2(h)(19)(iii)(C).” While public research universities in many states are classified as a 501(c)(3) organization, many public research universities are considered political subdivisions, agencies, instrumentalities or integral parts of their state, among other classifications, therefore falling outside the included definition of “nonprofit” organization. The means by which a public research university attains its tax-exempt nonprofit status may also vary within a given state. Therefore, APLU asks USCIS clarify that all public research universities are eligible to receive the waiver from the Asylum Program Fee.

We thank you for consideration of APLU’s request given the impact to public research universities and their mission to serve their communities and nation. Please know APLU is eager to continue to serve as a resource.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Becker", with a long horizontal flourish extending to the right.

Mark Becker  
President  
Association of Public and Land-grant Universities

CC: Ur Jaddou, Director, U.S. Citizenship and Immigration Services