

November 17, 2022

Hon. Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

The undersigned 334 workers' rights, immigrants' rights, civil rights and civil liberties, labor unions, human rights, research, and community-based organizations have assisted and defended countless immigrants who have sought to improve their workplaces, form unions, combat wage theft, defend civil rights, challenge harassment, and report unsafe working conditions. We have long seen how workers' vulnerability to deportation impedes their ability to speak out about labor violations and build power on the job, which in turn drives down wages and working conditions and undermines the enforcement of our country's core labor standards to the detriment of all workers. We were encouraged last October when you released a memo instructing Department of Homeland Security (DHS) components to provide guidance clarifying how they would support the enforcement of labor standards and protect victims and witnesses of labor exploitation.¹ Yet it has now been over a year since the release of that memo, and DHS has not yet clarified the process by which workers can access prosecutorial discretion, including deferred action and parole, when involved in labor disputes. This delay has real costs to the workers whose wages are stolen, who risk their safety in dangerous working conditions, who want to organize for a greater voice on the job. We therefore write to urge DHS to immediately release written guidance that clarifies the process by which undocumented workers, guestworkers, and others with precarious immigration status who are victims or witnesses of labor exploitation may seek prosecutorial discretion.

As you recognized last year, DHS "has a critical role in ensuring that our Nation's workplaces comply with our laws" and "must adopt immigration enforcement policies to facilitate the important work of the Department of Labor and other government agencies to enforce wage protections, workplace safety, labor rights, and other laws and standards."² The White House has also recognized, supported, and reinforced that DHS has a role to play in ensuring that "victims of, and witnesses to, labor exploitation and unfair labor practices [be] unafraid to cooperate with law enforcement in its investigation and prosecution of unscrupulous employers."³

¹ Memo from Secretary Mayorkas, Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual (Oct. 12, 2021), <https://www.dhs.gov/publication/memorandum-worksite-enforcement>.

² Id.

³ White House Task Force on Worker Organizing and Empowerment: Report to the President at 28, <https://www.dol.gov/sites/dolgov/files/OPA/newsreleases/2022/02/OSEC20220195.pdf>.

This guidance is urgently needed, as every day that goes by without it, unscrupulous employers exploit workers and cheat the system in order to turn a profit. These employers must be held accountable, and workers must see a clear commitment from DHS so that they can indeed be “unafraid to cooperate”⁴ with labor agencies. We work directly with many workers who are unwilling to come forward without clear guidance from DHS.

To be effective, this process should include the following components:

- Consistent processing by United States Citizenship and Immigration Services (USCIS), where immigrants in civil rights or labor disputes can affirmatively request deferred action and parole (where eligible);
- Concurrent processing of deferred action requests and employment authorization applications by USCIS;
- Initial grants of deferred action that last four years;⁵
- Waiver of the I-765 filing fees for workers granted deferred action;⁶
- An expedited process for adjudicating applications in a timely manner;
- A commitment to using the full range of prosecutorial discretion, including stays of removal, administrative closure, and release from detention where applicable;
- The re-establishment of an interagency working group including DHS, the U.S. Department of Labor (DOL), the National Labor Relations Board (NLRB), Equal Employment Opportunity Commission (EEOC), and other relevant federal agencies to avoid communication delays and ensure timely protections for workers; and
- Guidance on handling requests for immigration protections supported by state and local agencies enforcing civil rights and workplace laws.

We are encouraged by the guidance announced by the NLRB and the DOL on the processes by which workers who want to come forward about labor violations can seek their support for grants of prosecutorial discretion. It is critical that DHS now release its guidance and clarify the process by which these workers who witness or are subject to civil or workplace rights violations may seek protection. In addition, it should be noted that DHS’s immigration enforcement agencies are funded at a much higher rate than the agencies that protect labor standards—12 times as much—exacerbating the genuine fear workers have when coming forward to report violations to what they know are underfunded and understaffed labor agencies.⁷ Facilitating the ability of workers to come forward safely to report employer lawbreaking would act as a force multiplier to help labor agencies fulfill their mandates.

⁴ Id.

⁵ USCIS has the discretion to grant deferred action for four year increments. See, for example, USCIS’s decision to grant deferred action for four years to Special Immigrant Juveniles: Mar 7, 2022, USCIS to Offer Deferred Action for Special Immigrant Juveniles, <https://www.uscis.gov/newsroom/alerts/uscis-to-offer-deferred-action-for-special-immigrant-juveniles>.

⁶ Given this Administration’s acknowledgment that immigrant workers in these disputes are often victims of various labor abuses, a waiver of the I-765 filing fees is consistent with its policy to waive EAD fees for “victim-based benefits requests,” including its recent BFD process for U-Visa applicants. See fn. 1; <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>.

⁷ Daniel Costa, “Immigration enforcement is funded at a much higher rate than labor standards enforcement—and the gap is widening” *Working Economics* blog (Economic Policy Institute), June 20, 2019, <https://www.epi.org/blog/immigration-enforcement-is-funded-at-a-much-higher-rate-than-labor-standards-enforcement-and-the-gap-is-widening/>; Ihna Mangundayao, Celine McNicholas, and Margaret Poydock, “Worker protection agencies need more funding to enforce labor laws and protect

From day one, the Biden-Harris Administration has promised to “ensure that every worker is protected, can join a union, and can exercise their labor rights—regardless of immigration status—for the safety of all workers.”⁸ Establishing a clear, effective process to provide immigration protections and work authorization to immigrants who assert their civil and labor rights is an essential step forward in achieving this vision and will leave a legacy that elevates labor standards for all workers in this country. Your leadership on this issue will secure our potential to “grow the economy sustainably and equitably so that everyone gets ahead for decades to come.”⁹

Sincerely,

National Organizations

African Communities Together
Alianza Americas
Alianza Nacional de Campesinas, Inc.
American Friends Service Committee
American Immigration Lawyers Association (AILA)
American-Arab Anti-Discrimination Committee (ADC)
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice - Asian Law Caucus
Asian Pacific Institute on Gender-Based Violence
ASISTA Immigration Assistance
Association of Farmworker Opportunity Programs
Asylum Seeker Advocacy Project (ASAP)
Caring Across Generations
CASA
Catholic Labor Network
Catholic Legal Immigration Network, Inc.
Center for Gender & Refugee Studies
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Center for Survivor Agency and Justice
Centro de los Derechos del Migrante
Church World Service
Council of Holistic Christian Churches and Ministries (C.H.C.C.M.)
Detention Watch Network
Dignity Campaign
Disciples Immigration Legal Counsel
Economic Policy Institute
Esperanza United (formerly Casa de Esperanza: National Latin@ Network)
Faith In Action/LA RED
Families for Freedom
Family Values @ Work
Farmworker Justice
Freedom for Immigrants (FFI)

workers,” *Working Economics* blog (Economic Policy Institute), July 29, 2021, <https://www.epi.org/blog/worker-protection-agencies-need-more-funding-to-enforce-labor-laws-and-protect-workers/>.

⁸ The Biden Plan for Securing Our Values as a Nation of Immigrants, <https://joebiden.com/immigration/>.

⁹ President Biden’s Bipartisan Infrastructure Law, <https://www.whitehouse.gov/bipartisan-infrastructure-law/>.

Freedom Network USA
Futures Without Violence
GBV Consulting
Global Labor Justice - International Labor Rights Forum
Government Accountability Project
Haitian Bridge Alliance
Human Rights Watch
ICNA Council for Social Justice
Immigrant Legal Resource Center
Innovation Law Lab
InReach
Jobs to Move America
Jobs With Justice
Just Solutions
Justice in Motion
Latin America Working Group
Latino Pastoral Action Center, Inc. & Council of Holistic Christian Churches and Ministries
(C.H.C.C.M.)
Mijente
MPower Change
National Black Worker Center
National Center for Law and Economic Justice
National Council for Occupational Safety and Health
National Day Laborer Organizing Network (NDLON)
National Domestic Workers Alliance (NDWA)
National Education Association
National Employment Law Project
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project (NIPNLG)
National Lawyers Guild Labor and Employment Committee
National Legal Advocacy Network
National Network to End Domestic Violence
National Partnership for New Americans
National Skills Coalition
NETWORK Lobby for Catholic Social Justice
Oxfam America
Polaris
Provincial Council Clerics of St. Viator (Viatorians)
Public Justice
Public Rights Project
Resilience Force
ROC United
Service Employees International Union (SEIU)
Sisters of Mercy of the Americas Justice Team
South Asian Americans Leading Together (SAALT)
Southern Poverty Law Center
Sugar Law Center for Economic & Social Justice
Sunita Jain Anti-Trafficking Initiative
Tahirih Justice Center
Temp Worker Justice

Towards Justice
Ujima Inc., The National Center on Violence Against Women in the Black Community
UndocuBlack Network
Unemployed Workers United
UnidosUS
United Electrical Workers (UE)
United Farm Workers (UFW) Foundation
UNITED SIKHS
United We Dream
Washington Office on Latin America (WOLA)
Women's Refugee Commission
Worker Justice Alliance
Workplace Fairness
workplace justice lab@Rutgers University

State and Local Organizations

Adhikaar for Human Rights and Social Justice
Advocates for Basic Legal Equality
AIDS Foundation Chicago
Al Otro Lado
Allies of Knoxville's Immigrant Neighbors (AKIN)
American Gateways
Arise Chicago
Arizona Jobs with Justice
Arriba Las Vegas Worker Center
Asian American Advocacy Fund
Asian Americans Advancing Justice - Atlanta
Awood Center
A.Y.U.D.A. INC.
Bet Tzedek Legal Services
Binational Institute of Human Development
Black and Brown United in Action
Brazilian Women's Group
BU Law Immigrants' Rights and Human Trafficking Program
Building Dignity and Respect Standards Council
Building Skills Partnership
California Collaborative for Immigrant Justice
California Human Development
California Immigrant Policy Center
California Immigrant Youth Justice Alliance
California Rural Legal Assistance (CRLA) Foundation
Casa Latina
Casa San Jose
Casas Immigration, Ltd.
Catholic Charities of Southern New Mexico
Catholic Migration Services
Center for Worker Justice of Eastern Iowa
Center for Workers' Rights
Center on Policy Initiatives (CPI)
Central American Resource Center

Centro De Trabajadores Unidos En La Lucha (CTUL)
Centro Legal de la Raza
Centro Romero
Chacon Center for Immigrant Justice at Maryland Carey Law
Chicago Community and Workers Rights
Chicago Religious Leadership Network on Latin America
Chicago Workers Collaborative
Cleveland Jobs with Justice
Coalition for Humane Immigrant Rights (CHIRLA)
Colorado Immigrant Rights Coalition
Colorado Jobs with Justice
Columbia Legal Services
Community Justice Project
Community Legal Services, Philadelphia, Workers Rights and Advocacy Project
Community to Community Development
Comunidades Sin Fronteras CSF-CT INC
Congregation Action Network
Connecticut Shoreline Indivisible
Council on American-Islamic Relations (CAIR) - Minnesota
CT Students for a Dream
Day Laborer Programs, Catholic Charities New York
Day Worker Center of Mountain View
Deportation & Immigration Response Equipo (DIRE) Legal
Domésticas Unidas
Dominican Development Center
Dorothy Day Catholic Worker House, Washington DC
EL CENTRO de igualdad y derechos
El Comité de Apoyo a los Trabajadores Agrícolas
Emerald Isle Immigration Center
Employee Rights Center
Encuentro- New Mexico
Equal Justice Center
Fair Work Center and Working Washington
Faith in New Jersey
Families Rights Network
Family Action Network Movement
Family Action Network Movement (FANM) In Action
Family Forward Oregon
Farmworker and Landscaper Advocacy Project (FLAP)
Farmworker Association of Florida
Fe y Justicia Worker Center
Florence Immigrant & Refugee Rights Project
Fr. Charlie Mulholland Catholic Worker
Friends of Human Rights
Gainey Law, PLLC
Georgia Budget and Policy Institute
Georgia Human Rights Clinic
Global Wordsmiths
Graton Day Labor Center
Greater Boston Legal Services
HarborCOV

Haven Medical-Legal Partnership
Heartland Center for Jobs and Freedom
Her Justice
Houston Immigration Legal Services Collaborative
Illinois Coalition for Immigrant and Refugee Rights
Illinois Workers in Action
Immigrant Alliance for Justice and Equity
Immigrant Defenders Law Center
Immigrant Law Center of Minnesota
Immigrant Legal Advocacy Project
Immigration Center for Women and Children
Instituto de Educación Popular del Sur de California
Inter-Faith Committee on Latin America
Interfaith Worker Justice of East Tennessee
InterReligious Task Force on Central America
Iowa Coalition Against Domestic Violence
Iowa Migrant Movement for Justice
Jewish Activists for Immigration Justice of Western Mass
Jewish Council on Urban Affairs
Jewish Voice for Peace, Atlanta chapter
Jobs with Justice of East Tennessee
JUNTOS Philadelphia
Just Neighbors Ministry
Justice at Work
Justice at Work Pennsylvania
Justice Center of Southeast Massachusetts
Justice For Our Neighbors North Central Texas
Kelly Ryan Law, LLC dba Ryan Immigration Group
Kern Welcoming and Extending Solidarity to Immigrants
Koreatown Immigrant Workers Alliance (KIWA)
La Raza Centro Legal
Labor Council for Latin American Advancement, Pittsburgh Chapter
Labor Council for Latin American Advancement, Sacramento Chapter
Labor Council for Latin American Advancement, San Francisco Chapter
Labor Resource Center - UMass Boston
Latino Network
Latino Union of Chicago
Law Office of Jennifer Velarde
Law Office of Vanessa Frank
Legal Action Chicago
Legal Aid at Work
Legal Aid Justice Center
Long Beach Immigrant Rights Coalition
Long Island Jobs with Justice
Los Angeles Alliance for a New Economy
Los Angeles Center for Law and Justice
Make the Road New York
Maria Sanchez-Ley Law Office LLC
Massachusetts Coalition for Occupational Safety & Health (MassCOSH)
Massachusetts Immigrant and Refugee Advocacy Coalition
MetroWest Legal Services

Metrowest Worker Center - Casa
Michigan Immigrant Rights Center
Mid-Atlantic Pipe Trades Association
Minnesota Freedom Fund
Mission Graduates
Mississippi Workers' Center for Human Rights
Motivation Motivates
NC FIELD, Inc.
Nebraska Appleseed
New Hope Immigration Legal Services
New Immigrant Community Empowerment (NICE)
New Jersey Alliance for Immigrant Justice
New Jersey Policy Perspective
New Labor
New Mexico Center on Law and Poverty
New Orleans Workers' Center for Racial Justice
New York Division of the National Employment Lawyers' Association (NELA-NY)
New York Immigration Coalition
New York Justice for Our Neighbors, Inc.
NorCal Resist
North Carolina Justice Center
North Suburban Legal Aid Clinic
Northeast Justice Center
Northeast NY Coalition for Occupational Safety and Health
Northeast Ohio Friends of Immigrants
Northeast Ohio Worker Center
Northwest Immigrant Rights Project
Northwest Workers' Justice Project
Ohio Immigrant Alliance
OneAmerica
Opening Doors International Services
Pangea Legal Services
Perretta Law Office
Pilipino Workers Center of Southern California
Pineros y Campesinos Unidos del Noroeste (PCUN)
Pioneer Valley Workers Center
Placer People of Faith Together
Pomona Economic Opportunity Center
Progressive Leadership Alliance of Nevada
Public Counsel
Public Justice Center
Raise the Floor Alliance
Raise Up the South
Raksha, Inc.
Refugee Women's Network
San Francisco Living Wage Coalition
Santa Clara County Wage Theft Coalition
SEIU 32BJ
SEIU California
SEIU Texas
SEIU United Service Workers West

Services, Immigrant Rights and Education Network (SIREN)
Shriver Center on Poverty Law
Somos Un Pueblo Unido
Sosa Law
South Asian Network
South Asian Workers Center- Boston
Still Waters Anti-trafficking Program
Student Action with Farmworkers
Sur Legal Collaborative
Tenayuca Labor Project
Tennessee Immigrant and Refugee Rights Coalition
Thai Community Development Center
The Advocates for Human Rights
The Binational Center for the Development of Indigenous Oaxacan Communities
The Commonwealth Institute for Fiscal Analysis
The Legal Aid Society
The Restaurant Opportunities Center DC (ROC DC)
The Restaurant Opportunities Center of Mississippi (ROC MS)
The Restaurant Opportunities Center of New Orleans (ROC NOLA)
The Restaurant Opportunities Center of Pennsylvania (ROC PA)
Thomas Merton Center
Tulane Immigrant Rights Clinic
Unidad Latina en Acción CT
UnidosUS
United Food and Commercial Workers Local 1445
Unity Housecleaners LLC
University of California Irvine Workers, Law, and Organizing Clinic
University of California Los Angeles (UCLA) Labor Center
University of Illinois at Chicago (UIC) Graduate Employees Organization, Local 6297
Vermont Interfaith Action
Voces de la Frontera
VOICE Buffalo
Voz Workers' Rights Education Project
Wallingford Indivisible
Warehouse Worker Resource Center
Warehouse Workers for Justice
Wayne Action for Racial Equality
WE RISE Immigration Center - San Francisco Labor Council
WeCount!
Welcoming the Stranger
Wilco Justice Alliance (Williamson County, TX)
William E. Morris Institute for Justice
Wind of the Spirit Immigrant Resource Center
Women Working Together USA
Worker Justice Center of New York
Worker Justice Wisconsin
Workers Center of Central New York
Workers Defense Project
Workers' Dignity Project
Worksafe