

**Congress of the United States**  
**Washington, D.C. 20515**

January 16, 2024

The Honorable Ur Jaddou  
Director  
U.S. Citizenship and Immigration Services  
5900 Capital Gateway Drive  
Camp Springs, MD 20588

Dear Director Jaddou:

As Members of the Congressional Asian Pacific American Caucus (CAPAC), we write to request information about the process in which United States Citizenship and Immigration Services considers immigration applications in light of criminal court results involving the USCIS form applicant.

We remain troubled on the adverse impact that the Department of Justice's China Initiative continues to have on Asian American and Asian researchers based in the U.S. As you may know, on November 1, 2018, former Attorney General Jeff Sessions announced the DOJ's creation of the China Initiative with the stated purpose of identifying and prosecuting Chinese academics engaged in economic espionage. This program, however, eventually shifted its original focus from trade secret theft to research integrity issues, such as failures to disclose foreign affiliations on grant application forms. It also resulted in false accusations against scientists and scholars based on their ethnicity. A number of these scientists have since been acquitted or have had their charges dropped by federal prosecutors.

Although the DOJ formally terminated the China Initiative on February 23, 2022, we are concerned that academics of Asian descent in the U.S. who, despite having been cleared of their charges in the criminal court, may continue to face obstacles in the immigration court when attempting to maintain their legal status in the U.S. For example, [REDACTED], a naturalized Canadian citizen and professor for the University of [REDACTED] ([REDACTED]), was prosecuted twice by the Department of Justice under the China Initiative for alleged wire fraud and concealment of ties to a Chinese university. Despite a federal judge acquitting him of these charges in September 2021, he faced complications with USCIS for numerous months in renewing his temporary work visa to return to [REDACTED], and recently received a Notice of Intent to Deny from USCIS for his permanent residency application in which USCIS alleged that [REDACTED] is affiliated with and actively recruits for the Thousand Talents Program.

To address our concerns, we ask that USCIS consider responding to the following requests and questions:

- Provide a step-by-step description of USCIS' process, if any, in considering outcomes from criminal cases involving a USCIS form applicant in its adjudication over the application itself.
- Describe the process for USCIS form applicants to provide additional information to USCIS if they receive a USCIS Notice of Intent to Deny for their immigration forms due to allegations previously cleared in the criminal court so that USCIS may revisit their application.

We thank you for your full and fair consideration of this important matter, and we look forward to your responses to the above questions. If you need any additional information on the matters discussed in this letter, please reach out to Nisha Ramachandran, CAPAC's Executive Director, at [Nisha.Ramachandran@mail.house.gov](mailto:Nisha.Ramachandran@mail.house.gov).

Sincerely,



Judy Chu  
Chair, Congressional Asian Pacific American  
Caucus (CAPAC)



Ted W. Lieu  
Member of Congress



Jamie Raskin  
Member of Congress



February 22, 2024

The Honorable Judy Chu  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Chu:

Thank you for your January 16, 2024 letter to the United States Citizenship and Immigration Services (USCIS).

You asked for USCIS to provide a step-by-step description of USCIS' process, if any, in considering outcomes from criminal cases involving noncitizens seeking a benefit before USCIS. You also asked us to describe how benefit requestors should provide additional information to USCIS if they receive a Notice of Intent to Deny (NOID) which identifies a criminal record where there was no conviction.

The USCIS Policy Manual provides USCIS' policies for considering evidence, including criminal records, in the adjudication of benefit requests before USCIS.<sup>1</sup> The effect of a benefit requestor's criminal history on eligibility for an immigration benefit depends on the immigration benefit sought and the eligibility requirements for that benefit. Additionally, depending on the nature of the criminal conduct, that conduct might impact eligibility even if it did not result in a conviction.<sup>2</sup> Moreover, in discretionary benefits such as adjustment of status to that of a lawful permanent resident, criminal conduct, even if it did not result in a conviction, can be considered when determining whether to grant a benefit as a matter of discretion.

A benefit requestor must establish eligibility for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication. If the evidence the requestor provides meets their burden of proof to establish eligibility,<sup>3</sup> USCIS approves the benefit request. If the law requires an exercise of discretion, USCIS can approve the request only if the requestor merits a favorable exercise of discretion and otherwise establishes

---

<sup>1</sup> For general information concerning the consideration of evidence, please refer to the [USCIS Policy Manual, Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence.](#)

<sup>2</sup> For example, see INA 212(a)(2)(A)(i) and (a)(2)(C).

<sup>3</sup> See 8 CFR 103.2(b)(1).

eligibility. If the evidence is not sufficient to establish eligibility, USCIS may issue a request for evidence (RFE), issue a notice of intent to deny (NOID), or deny the request, as appropriate.<sup>4</sup>

In regard to your question concerning the process for responding to a NOID related to criminal charges, under 8 CFR 103.2(b)(8), the NOID will specify the type of evidence required, the bases for proposed denial, and clearly state the deadline by which the response must be submitted to USCIS, which may not exceed 30 days. The instructions for responding to the NOID are included in the notice sent to the applicant. For more general information concerning responses to a NOID, please visit the USCIS Policy Manual Volume 1, Part E, Chapter 6, Evidence, which provides additional information on the timeframe and options for benefit requestors to respond to a NOID.<sup>5</sup>

As your letter references a particular case in addition to asking general information about USCIS processes, if you seek information about a specific case, please provide USCIS with a written, and signed privacy release, or one made under the penalty of perjury, signed by the subject of the inquiry that authorizes USCIS to release information about their case to your office. For more information on confidentiality and privacy releases, please visit: <https://www.uscis.gov/congress/congressional-casework/procedures-for-responding-to-congressional-inquiries>.

To the extent that you seek to address issues arising in proceedings before the immigration court, we encourage you to reach out to the U.S. Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), or U.S. Immigration and Customs Enforcement (ICE). Likewise, any issues related to matters regarding visa issuance should be addressed with the Department of State (DOS).

Thank you again for your letter. 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,



Ur M. Jaddou  
Director

---

<sup>4</sup> See 8 CFR 103.2(b)(8)(i).

<sup>5</sup> For general information concerning NOIDs, please refer to the [USCIS Policy Manual, Volume 1, General Policies and Procedures, Part E, Adjudications, Chapter 6, Evidence](#), Subchapter F, Requests for Evidence and Notices of Intent to Deny, Section 4, Notices of Intent to Deny.