



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

September 30, 2026

James Percival
General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr Ave SE
MSC 0525
Washington, DC 20528-1008

Electronic Mail Delivery: james.percival@hq.dhs.gov

Dear General Counsel Percival:

I write in response to the letter you sent to the American Immigration Lawyers Association regarding purportedly “meritless” asylum claims.

The letter attempts to blame attorneys for failures in the asylum system while disregarding actions that the Trump Administration has taken, since its first day in office, to undermine and attack the legal principles that are the foundation of America’s immigration and asylum laws. The chaos in the current system was wrought by the Administration’s own policies, which have rendered it unable to meet the needs of American families and businesses and the nation as a whole.

The country urgently needs a modernized immigration system that enables America to fully realize the economic, social, and cultural benefits of immigration—strengthening families, fueling economic growth, and expanding opportunity. As the nation’s immigration bar, representing more than 18,000 immigration attorneys, AILA stands ready to work with elected leaders toward constructive solutions. Until that happens, AILA remains undeterred in its mission to promote fair and reasonable laws and to defend the vital role immigration attorneys play in ensuring a just system.

Among its many claims, your letter displays a fundamental misunderstanding of the role of immigration attorneys. Immigration lawyers did not create asylum law or the immigration system. Congress did. Immigration lawyers do not decide immigration cases. Government adjudicators and judges do. The law defines a clear role for immigration lawyers within the adversarial structure of the American legal system: advancing legal arguments, challenging government

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 www.aila.org

actions, and fulfilling their professional obligations to defend their clients and ensure that petitioners and beneficiaries receive the fair process that the law guarantees.

That is not abuse. Nor is it obstruction, as your letter asserts. It is the rule of law.

Rather than blame others, the Department of Homeland Security (DHS) and the Administration must take responsibility for [systematically weakening the institutions](#) charged with fair adjudication of asylum claims, family visas, employment visas and other forms of humanitarian relief – all created and mandated by Congress. Instead of fixing the court system, the Department of Justice has [fired immigration judges](#), pressured the remaining judges to hastily move cases and deny relief, and weakened meaningful appellate review. Instead of improving the system's capacity to process millions of immigration applications, the Administration has thrown sand into its the gears, resulting in a grinding halt of business operations and the lives of family members, employers, and people working in every industry who are [waiting longer and longer](#) for their cases to be decided.

With respect to the asylum system, this Administration has [blocked people fleeing persecution](#) who may qualify for protection under U.S. law from having any meaningful opportunity to make their case. It has dismantled large portions of the refugee system while creating special pathways for politically favored populations. It has denied protection to Afghans who risked their lives alongside American soldiers and diplomats and has even sought to revoke the visas and green cards of those who received protection years ago.

The Administration should be focusing its tremendous power toward improving these failing systems. Yet it has chosen a radically different path by [empowering ICE to act without regard for the Constitution or rule of law](#), while giving it extraordinary resources to conduct mass arrests, detention and rapid deportations. ICE is making arrests at schools, places of worship and courthouses, intimidating immigrants who have a right to a fair day in court and those who help them seek legal protection and redress.

None of these extreme policies are improving the lives of Americans, making us safer, or benefiting the nation. Instead, they are weakening the country by undermining public confidence and trust in the American system. Even federal court judges have demonstrated their impatience with the Administration's unlawful actions. Literally [hundreds of judges have halted or limited Administration policies](#) because the government exceeded its authority, denied fair hearings, or failed to comply with judicial orders. In this country, court orders are not optional. Government attorneys are officers of the court and have a special obligation to be candid with courts, comply with judicial directives, and ensure that the government's immense power is exercised lawfully.

Yet instead of focusing on those responsibilities, the Administration has sought to create one set of rules for itself and another for everyone else. It has proposed expanding penalties against immigrants, witnesses, and private attorneys while insulating government actors from

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 www.aila.org

comparable scrutiny. That is not accountability. It is an effort to intimidate one side of the process while shielding the other.

There is a [better way](#). Until Congress passes common sense reforms, there is much the administration can and should do to benefit America's families, businesses and communities. It can begin with strengthening the integrity of the asylum system. It should focus on reforms that make the process faster, fairer, and more secure. It should expand the use of well-trained asylum officers to adjudicate claims promptly and accurately. It should invest in adjudicative capacity rather than detention capacity. It should modernize casemanagement systems, improve information sharing among agencies, strengthen evidencebased fraud detection, and focus enforcement resources on genuine public-safety and national-security threats.

It should also create additional lawful and orderly pathways that reduce reliance on smugglers while preserving the right to seek protection established by Congress. These reforms would improve fraud detection, reduce backlogs, increase public confidence, and allow meritorious claims to be resolved more quickly while ensuring that those who do not qualify are processed through an orderly and lawful system.

In short, the Administration should strengthen the asylum system rather than dismantle it.

AILA remains committed to the highest standards of professional responsibility. We will not be intimidated as we defend lawyers fulfilling their ethical duties, protecting constitutional due process for those seeking legal asylum, and holding DHS fully accountable to the law.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Johnson", with a stylized flourish at the end.

Benjamin Johnson
Executive Director
American Immigration Lawyers Association

AILA National Office
1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 www.aila.org