November 13, 2026

Business and Foreign Workers Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
5900 Capital Gateway Drive, Camp Springs, MD 20746

Submitted via regulations.gov

Re: SHRM's Comment on the Department of Homeland Security's Proposed Rule on Removing Deference to Prior USCIS Determinations of Eligibility

To Whom It May Concern:

As the trusted authority on all things work, SHRM is the foremost expert, researcher, advocate, and thought leader on issues and innovations impacting today's evolving workplaces. With nearly 340,000 members in 180 countries, SHRM touches the lives of more than 362 million workers and their families globally. Drawing on the expertise of HR professionals and business executives across industries and organizations of all sizes, SHRM provides insights grounded in research, data, and practical experience at the intersection of talent acquisition, workforce management, and regulatory compliance. SHRM welcomes the opportunity to comment on the Department of Homeland Security's (DHS) proposed rule to remove deference to prior U.S. Citizenship and Immigration Services (USCIS) determinations of eligibility.

SHRM recognizes and respects DHS's responsibility to administer and safeguard the integrity of the employment-based immigration system. However, SHRM encourages DHS to consider the potential workforce consequences of removing deference from previously approved petitions when the underlying facts and eligibility requirements have not materially changed. The concern is not with appropriate scrutiny but with duplicative reviews that could unnecessarily extend adjudication timelines, disrupt lawful employment, and take attention from cases that deserve more targeted USCIS attention.

These concerns are particularly significant amid persistent workforce shortages. SHRM research found that 68% of HR professionals reported difficulty recruiting full-time employees, with 53% indicating that recruiting had become more difficult over the past year.[1] Additionally, 42% reported difficulty retaining full-time employees.[2] These challenges are especially pronounced in critical occupations: When asked about their experiences filling full-time positions over the past 12

[1] Source: 2026 Talent Trends, SHRM, 2026.
[2] Source: 2026 Talent Trends, SHRM, 2026.

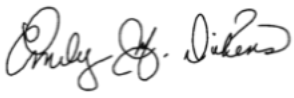
months, HR professionals reported that recruiting was difficult or very difficult for health care practitioners and technical roles (80%), health care support (79%), and life, physical, and social sciences (72%).[3] These findings suggest that talent shortages are persistent and increasingly structural rather than merely cyclical. For many organizations, unfilled positions are not simply an HR challenge; they represent a growing business risk that can affect productivity, operational continuity, and long-term growth.

Prolonged adjudication timelines can compound these challenges by creating uncertainty around employment authorization, workforce planning, and business continuity. For employees who have maintained lawful status, complied with applicable immigration requirements, and submitted timely petitions, administrative delays should not unnecessarily jeopardize their ability to remain in the workforce. Where continued employment authorization depends on a pending adjudication, delays may force employers to place otherwise eligible employees on leave or separate them from employment, despite ongoing business needs and circumstances outside the employer's or employee's control.

SHRM is not advocating for reduced security measures or less rigorous screening. Employers recognize the importance of immigration system integrity, with SHRM research finding that 68% support strenuous screening of foreign-born workers to address potential security concerns.[4] Rather, SHRM encourages DHS to preserve administrative efficiencies that allow USCIS to focus its resources on petitions warranting additional scrutiny, including those involving material changes, new evidence, or legitimate security concerns, instead of unnecessarily revisiting previously established eligibility.

A secure and credible employment-based immigration system must also be efficient, predictable, and consistent. SHRM urges DHS to preserve appropriate deference to prevent avoidable processing delays and ensure that individuals who comply with immigration requirements are not needlessly pushed out of the workforce because of administrative timelines beyond their control. SHRM remains committed to collaborating with policymakers and drawing on the collective experience of our membership to advance policies that support work, workers, and the workplace.

Sincerely,



Emily M. Dickens, J.D.
Chief Administrative Officer
SHRM

[3] Source: 2026 Talent Trends, SHRM, 2026.
[4] Source: Workplace Immigration: Employers See It as Key to Growth and U.S. Competitiveness, SHRM, 2023.