

May 15, 2026

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Jenna Beckham  
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NORTH CAROLINA  
**JUSTICE  
CENTER**

**RE: Unlawful refusal to issue updated driver's licenses to lawful permanent residents and refugees**

Dear Commissioner Tine,

We are attorneys with the American Civil Liberties Union of North Carolina (ACLU-NC) and the North Carolina Justice Center (NCJC), nonprofit organizations dedicated to protecting the constitutional and statutory rights of all North Carolinians, including refugees and immigrants who are lawfully present in the United States.

We write regarding reports that the North Carolina Division of Motor Vehicles (DMV) is (1) refusing to issue regular, full-term driver's licenses to individuals who have obtained lawful permanent resident (LPR) status or other permanent or indefinite lawful immigration status and (2) refusing to issue licenses to refugees notwithstanding the documentation and eligibility standards set forth in North Carolina law and the DMV's own policies.

The practices appear to violate the Equal Protection and Due Process Clauses of the United States and North Carolina Constitutions, and, with respect to refugees, the DMV's 2023 declaratory ruling.

**I. Refusal to update licenses after a change in immigration status.**

We have received multiple reports that when an individual who previously held a limited-duration North Carolina driver's license later obtains LPR status, DMV offices are refusing to issue a replacement license that reflects the person's new immigration status.

Instead, these individuals are reportedly told that they must continue carrying the existing license until it expires, even though the license continues to state:

“NO LAWFUL STATUS. LEGAL PRESENCE EXP. [DATE]”

or

“LEGAL PRESENCE EXP. [DATE].”

Those designations are false and stigmatizing for individuals who have obtained LPR status or another form of indefinite lawful status. A LPR, by definition, has *permanent* authorization to reside in the United States. Requiring LPRs and other people with indefinite lawful status to continue carrying a license with “no lawful status” or “legal presence expiration” designations is misleading and inconsistent with both state law and the DMV’s own policies.

The DMV issues replacement or updated licenses in numerous circumstances, including after a change of address, change of name, change in age category, change from a non-REAL ID compliant license to a REAL ID compliant license, or a change from one class of license to another. *See, e.g.*, N.C. Gen. Stat. §§ 20-7(f)(6), 20-7.1(a–b). Plainly, the DMV can issue an updated license when a person’s immigration status changes from temporary or limited status to permanent or indefinite lawful status.

We have also been told that at least one DMV employee informed an LPR that the inaccurate designation could not be removed even after the person naturalizes as United States citizen and that the person would have to wait until the license expired. It is unclear whether that statement is a statewide DMV policy or practice or an isolated misunderstanding by a single DMV office. Either way, it constitutes another instance of troubling discrimination against immigrant North Carolinians who have lawful, permanent status to remain in this country.



## II. Refusal to issue licenses to refugees.

We have also received reports that DMV officers are refusing to issue licenses to refugees even when they present the precise documentation that the DMV recognizes as sufficient.

As you know, after ACLU-NC and NCJC filed a petition alleging that DMV was illegally denying full term licenses to numerous lawfully present individuals, the DMV issued a declaratory ruling in 2023 confirming that refugees are eligible for North Carolina driver's licenses and identifying the documents that satisfy the DMV's proof-of-legal-presence requirements. Yet multiple refugees have reportedly been turned away after presenting those very documents.<sup>1</sup>



Examples include:

- In February 2026, a refugee woman seeking to replace her NC ID was asked at two DMV locations to present her green card or passport and was told she could not receive a duplicate ID without them. She ultimately obtained the duplicate ID through an online application submitted with the assistance of a caseworker and received it by mail.
- In May 2025, a refugee woman applied for a NC driver's license and presented her I-94, Social Security card, and valid NC ID, but was denied. She was issued a license only after later providing proof a pending green card application.
- In January 2025, a refugee woman with an NC ID valid through 2031 applied for a NC driver's license but was told her refugee travel letter (I-571) was insufficient. After contacting the NC DMV CIV Unit, it was discovered that the documentation had not been properly verified with the CIV, indicating that



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<sup>1</sup> *Proving Legal Presence in the U.S.*, The Official North Carolina DMV Website, <https://www.ncdot.gov/dmv/help/Pages/proving-legal-presence.aspx> (last visited May 5, 2026).

the examiner at the NC DMV made an independent eligibility determination rather than deferring to CIV. She later obtained a license at a different NC DMV location.

These reports indicate that the DMV is not merely misapplying its own guidance in isolated cases. It appears that the DMV is operating under a pattern or practice that is inconsistent with its own declaratory ruling, and that unlawfully deprives refugees of licenses to which they are entitled.



### **III. Refusing to update licenses for LPRs violates Equal Protection.**

The DMV's reported practice violates the Equal Protection Clause of the Fourteenth Amendment and the parallel protections of Article I, Section 19 of the North Carolina Constitution.

The DMV ordinarily permits drivers to obtain an updated or replacement license whenever significant personal information changes. Individuals may receive a new license after changing their address, changing their name, changing age categories, or transitioning to a different class of license. *See* N.C. Gen. Stat. §§ 20-7(f)(6), 20-7.1(a–b). Similarly, the DMV permits drivers with a non-REAL ID compliant license to obtain an updated REAL ID compliant license before the renewal period for their license. *See N.C. REAL ID*, The Official North Carolina DMV Website, <https://www.ncdot.gov/dmv/license-id/nc-real-id/Pages/default.aspx> (last visited May 5, 2026) (noting that if you obtain “an N.C. REAL ID outside of the renewal period, the cost is the same as a duplicate”).

The DMV thus permits many categories of drivers to obtain a replacement license. Yet, according to the reports we have received, the DMV refuses to issue an updated license when the change is the individual's transition from temporary or uncertain immigration status to lawful permanent resident status or another indefinite lawful status.



That distinction treats individuals differently based solely on their national origin. The United States Supreme Court has long recognized that classifications based on alienage “are inherently suspect and subject to close judicial scrutiny.” *Graham v. Richardson*, 403 U.S. 365, 372 (1971). The Fourteenth Amendment “embod[ies] a general policy that all persons lawfully in this country shall abide ‘in any state’ on an equality of legal privileges with all citizens under non-discriminatory laws.” *Takahashi v. Fish & Game Comm’n*, 334 U.S. 410, 420 (1948). The Fourth Circuit has likewise recognized that lawfully present noncitizens are entitled to heightened constitutional protection against discriminatory state action. *See Moreno v. Univ. of Maryland*, 645 F.2d 217, 220 (4th Cir. 1981).



Here, the DMV’s policy burdens a class of individuals who have already established that they possess permanent or indefinite lawful status. Once a person becomes an LPR, there is no compelling state interest in continuing to force that person to carry a license declaring “NO LAWFUL STATUS” or “LEGAL PRESENCE EXP.” Such a designation is inaccurate, serves no purpose, and conflicts with the statutory scheme—which envisions that individuals with either permanent or indefinite lawful status receive full term licenses. *See* N.C. Gen. Stat. § 20-7(f)(1)–(3).



Moreover, the DMV’s practice imposes substantial and concrete harm on lawful permanent residents. By forcing LPRs to continue carrying these marked licenses, sometimes for years after they have obtained permanent status, the DMV marks them having “no lawful status” or subject to a temporary status. These stigmatizing labels invite interrogation and detention by law enforcement and other officials, especially under recently enacted state laws that require officials to inquire into individuals’ immigration status. These licenses put their holders at risk of detention and being reported to immigration authorities, and at minimum compel them to disclose their immigration history every time they present identification. Those inaccurate notations can interfere with employment, housing, banking, and access to government services. They also expose immigrant North Carolinians to stigma, harassment,

discrimination, and suspicion despite their lawful permanent status.

Indeed, courts have repeatedly invalidated state driver's-license policies that deny equal treatment to lawfully present noncitizens with indefinite lawful status. *See, e.g., Intercommunity Just. & Peace Ctr. v. Registrar, Ohio Bureau of Motor Vehicles*, 440 F.Supp. 3d 877, 896–97 (S.D. Ohio 2020) (holding that Ohio could not deny standard licenses to individuals with indefinite lawful status); *Fahy v. Comm'r, New Hampshire Dep't of Safety*, No. CIV. 05-CV-97-SM, 2006 WL 827805, at \*6, \*8 (D.N.H. Mar. 29, 2006), order clarified on reconsideration, Civil No. 05-CV-97-SM, 2006 WL 1764346, at \*2 (D.N.H. June 26, 2006) (invalidating state restrictions on driver's licenses for lawful permanent residents); *see also Arizona Dream Act Coal. v. Brewer*, 855 F.3d 957, 969–76 (9th Cir. 2017) (holding that Arizona likely violated Equal Protection by treating similarly situated individuals differently in administering driver's-license eligibility).



The DMV's refusal to issue replacement licenses to LPRs violates constitutional equal protection because it discriminates against lawfully present noncitizens based on their national origin and because the practice cannot survive strict scrutiny.

#### **IV. Refusal to update LPR licenses violates Due Process.**

The DMV's practice also violates procedural and substantive due process.

##### **a. Procedural Due Process**

Pursuant to the United States Constitution, “[n]o State shall make or enforce any law which shall ... deprive any person of life, liberty, or property, without due process of law[.]” U.S. Const., amend. XIV, § 1. The North Carolina Constitution similarly provides that “[n]o person shall be ... in any manner deprived of his life, liberty, or property, but by the law of the land.” N.C. Const. art. I, § 19.



A driver's license is a protected property interest. Once the State creates an entitlement to a driver's license under specified statutory criteria, the State may not deny or withhold that license arbitrarily and without fair procedures. *See Bell v. Burson*, 402 U.S. 535, 539 (1971).

Under N.C. Gen. Stat. § 20-7, individuals who possess lawful permanent resident status are eligible for regular, full-term North Carolina licenses. Yet, the DMV appears to be denying those licenses through an unwritten practice that is neither reflected in statute nor publicly disclosed.

Affected individuals are apparently given no written explanation, no citation to any statute or policy, and no meaningful opportunity to challenge the refusal. Instead, they are simply told that they must wait until the existing license expires. That is constitutionally inadequate. At a minimum, due process requires that individuals be informed of the basis for the denial and provided a meaningful opportunity to contest it. *See Bell*, 402 U.S. at 539.



#### **b. Substantive Due Process**

Under substantive due process principles, government policies and practices cannot be unreasonable, arbitrary or capricious, and must be substantially related to the valid object sought to be obtained. *Bunch v. Britton*, 802 S.E.2d 462, 473 (N.C. Ct. App. 2017). Thus, substantive due process may be characterized as a standard of reasonableness. *Id*; *see also State v. Guice*, 541 S.E.2d 474, 481 (N.C. Ct. App. 2000).

The DMV's refusal to update licenses for LPRs also violates substantive due process because the action here is arbitrary and capricious. The DMV's practice is arbitrary because it treats immigration-status changes differently from every other type of material change on a license, and there is no justification for this distinction. LPRs are forced to carry inaccurate or misleading information on their license, which can interfere with daily life. The policy bears no reasonable relationship to any legitimate administrative purpose because the DMV already has mechanisms for issuing replacement licenses, verifies immigration status through SAVE and other



systems, and updates licenses whenever other identifying information changes. The continued use of the inaccurate notation undermines, rather than advances, the State’s interest in maintaining accurate identification records. The policy is unnecessary and burdensome, particularly given that the DMV routinely updates licenses for others.

**V. DMV policy constitutes an improperly adopted rule in violation of North Carolina law.**

In addition to the constitutional concerns, the DMV’s practice of refusing to update licenses for LPRs violates state law as arbitrary, capricious, and improperly promulgated. Under the North Carolina Administrative Procedure Act (APA), a “rule” is defined broadly to include any agency statement of general applicability that implements, interprets, or prescribes law or policy. *See* N.C. Gen. Stat. § 150B-2(8a). Agency rules that should be formally adopted may not be enforced without following the proper notice-and-comment procedures. N.C. Gen. Stat. § 150B-18.

By effectively creating a new policy that limits full-term licenses for LPRs without formal rulemaking, the DMV has established a de facto rule of general applicability without the required public notice or opportunity for comment. This policy is also unlawful because it conflicts with North Carolina’s statutory scheme, which contemplates that individuals with indefinite lawful status, including lawful permanent residents, are eligible for full-term licenses rather than time-limited licenses. An agency may not adopt or enforce a policy – formal or informal – that is inconsistent with governing statutes. Therefore, this practice could be challenged under the APA as an invalid exercise of agency authority.

North Carolina courts have repeatedly held that agencies may not enforce policies or practices that should have been adopted as formal rules. *See N.C. Dep’t of Env’t Quality, Div. of Water Res. v. N.C. Farm Bureau Fed’n, Inc.*, 921 S.E.2d 121, 130 (N.C. 2025) (held that the department needed to provide the public with the notice or opportunity to be heard mandated by the APA); *see also N.C. State Bd. of Educ. v. State*, 805 S.E.2d 518, 524 (2017) (describing the APA’s “comprehensive statutory



scheme for procedures to allow and require” notice to the public, public input, and due process for those affected by administrative rules and decisions); *Dillingham v. N.C. Dep't of Hum. Res.*, 513 S.E.2d 823, 827–28 (1999) (invalidating an administrative law because it had not been adopted in accordance with APA requirements and holding that “reliance upon the unadopted rule . . . was an error or law”).

The DMV’s ad hoc refusal to update LPR licenses fails to comply with the procedural and substantive requirements of the APA.



## **VI. Refusing to issue licenses to refugees violates the 2023 declaratory ruling.**

The DMV’s refusal to issue licenses to refugees also appears to violate the DMV’s own 2023 declaratory ruling.

In that ruling, the DMV expressly recognized that refugees are eligible for full-term North Carolina driver’s licenses and identified the federal immigration documents that refugees may present as proof of unlawful presence. Refugees who present those documents are entitled to have their applications processed under the same standards as any other eligible applicant.

Yet refugees are reportedly being turned away even after presenting the exact documentation listed in the declaratory ruling. If that is occurring, DMV personnel are acting contrary to the agency’s own binding interpretation of state law.

## **VII. Requested Relief**

Accordingly, we ask that the DMV:

1. Take corrective action, including providing notice of and procedures for prompt issuance of replacement licenses to individuals who presented proof of permanent or indefinite lawful status but were denied updated full-term licenses.
2. Immediately cease refusing to issue replacement licenses (devoid of any “NO LAWFUL PRESENCE” or



“LEGAL PRESENCE EXP.” markers) to individuals who have obtained lawful permanent resident status or another form of permanent or indefinite lawful status.

3. Issue guidance to all DMV offices confirming that such individuals are entitled to issuance of updated, full-term licenses without waiting for their current limited license to expire.
4. Provide and publish written confirmation that refugees who present the documentation identified in the 2023 declaratory ruling are eligible for licenses.
5. Issue guidance to all DMV offices confirming that refugees are permitted to receive licenses when all requirements are met.

We hope that the DMV will act promptly to correct these practices without the need for further legal action. North Carolina residents who are lawfully present, including LPRs and refugees, are entitled to accurate identification and equal treatment under the law. We therefore ask that you respond to this letter by **June 5, 2026**, confirming the steps the DMV will take to ensure that all offices comply with state law, the Constitution, and the DMV’s own policies.

Sincerely,

/s/ Michele Delgado

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