

GENERAL TALKING POINTS FOR USCIS PROCESSING RULES

EFFECTIVE 02/01/2018

Recently, the Immigrant Legal Advocacy Project (ILAP) sent us a notice of the new processing guidelines the United States Citizenship & Immigration Services (USCIS) will be using to prioritize processing of asylum applications. If you have not seen it, make sure to read it in addition to this document (I have attached it to this email). As a follow up, we have been in touch with ILAP, and would like to summarize some thoughts about how we might best help and support mentees.

HISTORY: Briefly, the “new” policy of processing “Last in, First out” (LIFO) was the USCIS policy until 2014 when the system became overwhelmed and they switched to processing applications chronologically (in the order in which they came in). By 2017, the time between the initial filing of the application (and issuance of the “A” number) and the scheduling of the first hearing had grown to three or four years or longer. **The recent return to LIFO is intended to quickly process and eliminate “frivolous” applications (meaning those that do not meet the explicit standard for consideration of asylum, which requires the applicant to prove a credible fear of or actual persecution based on race, religion, nationality, social membership, or political opinion).** USCIS is hoping that those without strong cases will be discouraged from applying for asylum, as they can no longer expect the process to take years, buying them time to live and settle in the US.

RESULTS OF CHANGE:

- For those newly arrived with a strong claim and getting good advice and support, having the process sped up will allow them to get a decision sooner so that they can move forward with their lives.
- The Boston USCIS office, which processes applications from Maine, has established these priorities:
 - **First priority:** Applications that were scheduled for an interview, but the interview had to be rescheduled at the applicant’s request or the needs of USCIS.
 - **Second priority:** Applications that have been pending 21 days or less (filed AFTER January 8, 2018)
 - **Third priority:** All other pending affirmative asylum applications will be scheduled for interviews starting with newer filings and working back towards older filings.

(ILAP has not yet seen any cases that were filed after January 8, 2018, be scheduled so how quickly things will move is still unclear.)

- **ILAP’s prior advice to file a skeletal application (without their detailed story) in order to get an A number and a place in line, is no longer recommended. From this point forward, people filing for asylum should understand they will likely be called for an interview possibly within a few weeks, but more likely within a few months.** They should, therefore, take the time prior to filing to make sure that their case is presented as strongly as possible, as they will no longer have years to seek legal advice, file supplemental materials and prepare for an interview.
- **Legally people have a year from the day they arrive in the US to file for asylum, but they must also be cognizant of the terms of their visa. Most (but not all) of the mentees in the WTS community arrived on a travel visa and if that visa expires before they have filed for asylum, they are no longer here legally and may be at increased risk.** (Those who crossed the border illegally, were detained, and then released pending their asylum application are in a different category altogether.)
- Given that asylum seekers must wait 150 days from receiving their A# before filing for a work permit, many may not be eligible to work prior to their initial immigration hearing.

WHAT DOES THIS MEAN FOR THOSE WHO HAVE ALREADY FILED?

- **Maine General Assistance (GA) rules caps assistance to asylum seekers at 24 months.** There are no exceptions to allow people to receive assistance after that time period. Portland, Westbrook and South Portland (among some other municipalities) have allocated special “gap” funding for people before they get their “A” number, but that must be renewed each year, and there’s no way of telling which city will extend it at any given time. (Eligibility for GA prior to receiving an A number is one reason why these communities attract so many asylum seekers). Those who have been waiting for their hearing, and who are still at least partially dependent on GA should be aware of when their 24 months of eligibility will run out.
- **Those who have already submitted their skeleton I-589 and received an A-number but have not yet written their story or gathered evidence, should start working on this ASAP.** While it is preferable to have an immigration lawyer’s help, it is not absolutely necessary, so don't wait. ILAP does recommend having all materials checked over by a lawyer before submission, to check for inconsistencies. Applications are more likely to be successful with help from a lawyer familiar with the system, but a shorter time frame to an immigration hearing means people should get started right away, even if they do not have a lawyer yet.
- ILAP and Congresswoman Chellie Pingree’s office, both of whom we asked for advice about how to proceed, stated that the data showed that having an attorney isn’t crucial at the first hearing if the affidavit and coaching is done well and the person or family meets the criteria for asylum. However, if they are denied at the hearing and the case proceeds to court, having an attorney will be essential. (Note - The denial rate is way up across the country with Boston still granting more asylum than others but still lower than in the past.)

LEGAL ASSISTANCE CHANGES:

- Because of the challenges outlined above, asylum seekers will not always have time to file for asylum, then file for a work permit, and have a chance to save money for an attorney. More people will feel they need an attorney sooner, and ILAP believes this community will not have the capacity to offer everyone free legal advice.
- To that end, we have begun to brainstorm ideas of how and when to get new arrivals legal assistance. It is our goal to continue to be creative in how we support each family, but not to begin with the assumption that they must get an attorney immediately. Many of us have already experienced the futility of trying to find an attorney who is free to take another pro bono case.
- **Crucial will be holding sessions for asylum seekers on how to do their own application.** The most important thing is telling the truth. There is no magic recipe for getting asylum. Mentees should be encouraged to tell their own story in their own words.
- **CAUTIONARY ADVICE: ILAP warned against using pastors or other “community members” to help people fill out the asylum applications.** They are not trained, and some think they can “outsmart” USCIS. Many are well meaning, but they are not professionals and often give bad advice. They sometimes urge applicants to exaggerate their claims or omit key important information. The most important thing is telling the truth. As mentors, we should keep reiterating for them to tell the truth, and to direct mentees to the workshops and trainings we hope will grow in numbers.

MOVING FORWARD/GETTING CREATIVE:

- **On March 23rd, 1:30 - 3:30, Portland Adult Education (fliers to come soon) will host a training on how to fill out the application -what to be sure to do and not to do. It will be based on a manual and video people are urged (almost required) to read or watch ahead of time. You can find a link to the manual and video in the attached ILAP document.** The manual is available in English, French, Spanish and Arabic and can also be accessed from the WTS website (<http://wtsmaine.com/knowledge-base/asylum-process/>). The idea is to have people watch the video and get grounded in the information, so the session will really be a working session.

IDEA: That we hold viewing sessions for people and urge them to prepare. Those who can't go someplace to view it might watch and discuss with their mentor. We can partner with ILAP and PAE to be sure as many people as possible attend.

- **Interview coaching:** The importance of coaching has often been raised to assist people to know what the asylum hearing will be like and what to expect. ILAP feels this one task would be even more helpful than trying to find and train people to help fill out the application.

IDEA: That we recruit lawyers who are already trained in Immigration cases, and ask them to volunteer to coach one or two people a month. The commitment would be about 3 hours: 1 hour to read the application, 2 hours to do a mock interview. It would NOT entail editing or giving advice, except to give feedback on the mock interview itself.

This is not an exhaustive list, but it serves to give some basic information as we move forward with confidence that we are doing the best we can to support new Mainers. We will keep you updated as needed. This document, and other relevant information will be posted to the WTS website (www.wtsmaine.com).

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