

Harmful immigration policies and what you can do to help

By Miryam Antúnez De Mayolo

January, 2019

Under the current administration, immigration rules and policies are changing at a dizzying pace. Unfortunately, these changes are mostly detrimental to immigrants and their families.

Two memoranda issued by USCIS (U.S. Citizenship and Immigration Services) in the past few months can have catastrophic consequences for anyone applying for an immigration benefit. A Policy Memorandum from July 13, 2018, which became effective on Sept. 11, 2018, grants discretion to USCIS adjudicators to deny applications, petitions or requests without first issuing a Request for Evidence (RFE) or Notice of Intent to Deny (NOID). This is a dramatic departure from the prior “no possibility” policy, which required that the adjudicator issue an RFE unless there was “no possibility” that the deficiency could be cured by submission of additional evidence. Under the old policy, the applicant had a chance to supplement or expand his/her initial petition. Under the new policy, a denial can be issued if the adjudicator deems that the evidence submitted is not strong enough, depriving applicants from the opportunity to contest the adjudicator’s findings. Immigration applications can be very expensive, and blank denials without an opportunity to contest USCIS’ findings could end up costing applicants hundreds to thousands of dollars.

The new policy, however, could be more onerous than previously thought, if coupled with the USCIS Memorandum issued on June 28, 2018, which outlines a new policy guidance on when to issue a Notice to Appear (NTA) against a noncitizen immigrant. The NTA document is the official charging document issued by the Department of Homeland Security (DHS) to begin deportation/removal proceedings against a noncitizen under federal immigration law. The new policy will have significant negative consequences even for legal immigrants applying for immigration benefits. The new policy impacts all immigration applications, petitions and requests including citizenship, permanent residence, Special Immigrant Juvenile Status (SIJS), VAWA self-petitions, U (crime victim) visa, and many other applications.

Due to the new policy changes, USCIS officials will now have broader authority to deny initial filings without granting applicants an opportunity to supplement them, issuing case denials over mistakes and missing documents without giving applicants an opportunity to fix them and provide additional documentation. The change in enforcement policy directs USCIS to expand situations in which it will be permitted to issue NTAs against immigrants applying for immigration benefits, including lawfully present immigrants. Furthermore, the policy change dramatically increases the situations that will trigger when an NTA is issued by USCIS and will likely lead to more people being placed in removal/deportation proceedings.

The following are situations in which USCIS will issue an NTA that will lead to deportation proceedings:

- 1) When an application or petition request is denied and the noncitizen is not lawfully present; or
- 2) When a lawfully present immigrant's application is denied and the immigrant is deportable based on specific enforcement categories (based on Trump's previous executive order); or
- 3) When there is suspected fraud or if the immigrant has certain criminal history.

Additionally, USCIS denials for all manner of immigration benefits under this administration have increased by 37 percent (CATO Institute, Nov. 18, 2018).

The stakes are high for immigrants who need qualified legal immigration services. Now more than ever, it is critical that immigrants seeking help with their immigration applications seek qualified, competent immigration legal service providers. Immigrant lives and their future are at risk because any misstep or wrong legal advice or guidance could lead to them being denied immigration relief or more importantly lead to severe consequences such as deportation. For more information please visit the CLINIC link here: <https://cliniclegal.org/resources/uscis-issues-revised-nta-guidance-quick-analysis>.

The 'Migrant Caravan'

The "migrant caravan" originated in Honduras, but many individuals from Guatemala and El Salvador joined the arduous journey as well. Most people traveling in that caravan are fleeing extreme violence and persecution in their home countries and see the caravan as a way to ensure their safety while traveling. These people are trying to reach the United States but not in order to break our laws. Quite the opposite, these people are trying to reach our country in order to avail themselves of a perfectly legal recourse that has been part of our law and jurisprudence for generations: the right to seek asylum. If someone flees her country due to persecution based on ethnicity, nationality, political opinion, religion or membership in a particular social group, then that person can ask for asylum, which is based on the principle of non-refoulement: the practice of not forcing refugees or asylum seekers to return to a country where they would be persecuted.

In order for someone to seek asylum, that person needs to be:

- (a) living or physically present in the United States, or
- (b) do so at the airport or a port of entry, which is precisely what the desperate people in the "migrant caravan" are trying to do.

What can people do to help immigrants?

Donate to a local organization that supports immigrants, such as Catholic Charities of the Archdiocese of Dubuque. Catholic Charities' immigration attorneys assist families in Iowa by providing affordable legal services to help reunite families and navigate the immigration system. Immigration attorneys provide free legal consultations to immigrant families in the Archdiocese of Dubuque.

Donate air miles. Lawyer Moms of America has been contributing airline miles and money to people in shelters along the border, making it possible for those who have achieved asylum to leave and make space for new arrivals.

Volunteer and serve immigrant families at the border and in family detention. Consider volunteering with one of the Catholic respite centers on the border such as Annunciation House in El Paso, Catholic Charities of the Rio Grande Valley or Catholic Charities of Southern Arizona.

You can also volunteer with the CARA Pro Bono Project to help stop family detention.

Educate yourself about what's going on in Central America and about U.S. policies in the region. Seek out credible sources of information about asylum and migration. Have conversations with others about it.

Organize and attend local events and demonstrations in support of a compassionate response to the refugees. Support speaking tours with Central Americans who can address the root causes of forced migration. Let your congressional delegation know how you feel. Visit the U.S. House of Representatives website and enter your zip code to find out whom to contact. To reach your U.S. senator, go to the U.S. Senate website and choose your state.

Pray: God's unambiguous mandate to love our neighbor and to welcome the stranger are at the core of our faith. Pray for God's protection of all immigrants: those already here and those who are coming in that caravan. For more information about Catholic Charities and immigration legal services, please visit our website www.CatholicCharitiesDubuque.org or call 319-364-7121.