



# CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

## **Key Takeaways from Freedom of Information Act Request on Office of Legal Access Programs (OLAP) and the Recognition and Accreditation Program<sup>1</sup>**

The Catholic Legal Immigration Network, Inc. (CLINIC) submitted a Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) seeking data and records on the adjudication of recognition and accreditation applications and representation in immigration court proceedings by fully accredited representatives.

With regard to the adjudication of recognition and accreditation cases, EOIR responded with charts documenting the number of applications approved, disapproved, and the average time (in days) from receipt of application until the agency made a determination to approve or disapprove the application. Additionally, EOIR stated that it does not track the reasons for disapproval of an application or for termination of recognition or accreditation, but the agency did provide a list of possible reasons why the agency might take these actions.

EOIR also provided data on representation by an accredited representative in immigration court proceedings in the form of spreadsheets broken down by year, court, and detained status. The spreadsheets provide the number of cases handled by an accredited representative and the outcome of the matters.

Here are CLINIC's main takeaways from the FOIA results:

### **Adjudication of recognition and accreditation cases**

#### **1. Processing time**

- The average adjudication time for new applications for recognition steadily increased between 2012 and 2014. However, between 2014 and 2018, the average adjudication time for these applications dropped by 37%.
  - In 2012, the average adjudication time was 90 days, but in 2014 that had increased by 37% to 123 days.
  - From this peak in 2014, the average adjudication time dropped by 37% to 77 days in 2018.

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<sup>1</sup> CLINIC's Defending Vulnerable Populations Program reviewed the FOIA disclosures and issued this analysis.

- Before 2017, organizations were not required to apply for renewal of recognition. Instead, an organization remained on the roster of recognized organizations indefinitely once it had received initial recognition. Regulatory changes in December 2016 instituted a renewal requirement. In 2018, there was an increase of 5 days in the average adjudication time for renewal of recognition applications as compared to 2017.

## 2. Number of Applications Submitted

- **Between 2010 and 2015, there was a 61% increase in the number of new applications for recognition submitted to EOIR.**
  - In 2010, EOIR received only 135 new applications for recognition. In 2015, the number of applications submitted to EOIR peaked at 218 applications.
- **Since 2015, the number of new applications for recognition has dropped. By 2018, the annual number of new recognition applications received was 22% lower than it was at its peak in 2015.**
  - In 2015, EOIR received 218 new applications for recognition. In 2018, EOIR received only 170 applications.
- **New applications for full accreditation drastically increased between 2010 and 2015.**
  - In 2010, EOIR only received two (2) applications for full accreditation. The number of applications for accreditation steadily increased each year until 2015, when EOIR received 116 applications, representing a 5700% increase.
- **After 2015, the number of new applications for full accreditation submitted to EOIR began to decline.**
  - Between 2016 and 2018, there was a 24% decrease in the number of new full accreditation applications received by EOIR.
- **New applications for partial accreditation also drastically increased between 2010 and 2016.**
  - In 2010, EOIR only received 10 applications for partial accreditation. The number of applications for partial accreditation steadily increased each year until 2016, when EOIR received 830 applications, representing an 8200% increase.
- **After 2016, there was a 32% decrease in the number of new applications for partial accreditation submitted to EOIR.**
  - Partial accreditation application submissions decreased from a peak of 830 applications in 2016 to only 563 applications in 2018.

## 3. Approval and Disapproval Rates

- **There has been a substantial decrease in the approval rate for new applications for recognition since President Trump took office.**
  - Between 2010 and 2016, the approval rate for new accreditation applications hovered between 48% and 66%. In 2017, the approval rate dropped to 40.6%. In

2018, it dropped even further to only 34% with the remaining 66% apparently being denied, withdrawn, or not adjudicated.

- **There has been a substantial drop in the approval rate for new applications for full accreditation since President Trump took office.**
  - In the last years of the Obama administration, the approval rate for full accreditation applications was quite high. In 2015, the approval rate for new full accreditation applications was 70%. In 2016, the approval rate for these applications increased 78%.
  - A significant change occurred with the change in Administration. In 2017, the approval rate significantly dropped to 47%. In 2018, it dropped even further to only 43%.
- **There has been a substantial increase in the disapproval rate for new applications for partial accreditation in recent years.**
  - The disapproval rate for new applications for partial accreditation remained at 10% or less between 2010 and 2016. Between 2014 and 2016, the disapproval rate for these applications was below 3%.
  - In 2017, the number of disapprovals increased to over 10%. In 2018, the disapproval rate was above 14%.
- **EOIR did not adjudicate many renewal applications.**
  - EOIR started requiring organizations to renew their accreditation as part of a regulatory change that occurred in December 2016. Of the 248 applications filed between 2016 and 2018, only 118 were approved and only 10 were disapproved. Nearly 50% of applications for renewal were not adjudicated.
  - CLINIC surmises that some of these applications may have been withdrawn, while others remain pending.

#### 4. Termination

- **Regulatory changes in December 2016 precipitated EOIR terminating recognition for numerous organizations.**
  - There were no terminations of recognition between 2010 and 2016. Following [regulatory changes in December 2016](#) that allowed for termination of recognition, EOIR began terminating recognition for large numbers of organizations. In 2017, EOIR terminated recognition for 49 organizations. In 2018, this number ballooned to 235 organizations.

#### **Representation by Fully Accredited Representatives in Immigration Court**

- **Accredited representatives were effective advocates in even the most difficult jurisdictions for immigration matters.**

- In Atlanta, Georgia accredited representatives won termination in 37 cases between 2010 and 2018. This represented 86% of the 43 total cases in which an accredited representative represented the respondent.<sup>2</sup>
  - In Stewart, Georgia accredited representatives won relief (not including voluntary departure) for their clients in 67% of cases in which an accredited representative represented the respondent between 2010 and 2018.<sup>3</sup>
- **Accredited representatives are increasingly critical in helping noncitizens detained in remote locations to obtain bond.**
- Between 2016 and 2018, immigration courts that serve only detained populations saw some of the largest percentage increases in the number of bond receipts obtained by an accredited representative.
    - Adelanto, California: 300% increase
    - Batavia, New York: 1300% increase
    - Otero, New Mexico: 4600% increase
- **Being represented by an accredited representative provided significant benefit over proceeding pro se.**
- In cases where an accredited representative represented a noncitizen before the Board of Immigration Appeals, there was a positive outcome<sup>4</sup> in 34% of cases (representing 984 cases out of 1612 total cases) between 2010 and 2018.
  - Even in cases involving a detained noncitizen, accredited representatives obtained a positive outcome on appeal in 27% of cases (111 cases out of 414 total detained cases where an accredited representative represented a noncitizen).
  - In contrast, previously released data describing BIA cases involving unrepresented noncitizens shows a much lower success rate for unrepresented noncitizens. For example, data provided in a 2014 analysis of the BIA Pro Bono Project revealed that out of the 43,571 decisions issued by the BIA between 2002 and 2011 in which the noncitizen appealed and was unrepresented, the Board issued a decision favorable to the noncitizen only 9.5% of the time.<sup>5</sup>

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<sup>2</sup> Between 2013 and 2018, the Atlanta Immigration Court had a 94% denial rate for asylum applications. The national average was 58%. Syracuse University's Transactional Records Access Clearinghouse, <https://trac.syr.edu/immigration/reports/judge2018/denialrates.html>; see also Jeremy Redmon, *Georgia's Immigration Court Judges Among Toughest in Nation for Asylum*, THE ATLANTA JOURNAL-CONSTITUTION, July 25, 2019, <https://www.ajc.com/news/breaking-news/georgia-immigration-court-judges-among-toughest-nation-for-asylum/svQ2CmRGXS5Hgi2utVTmrO/>

<sup>3</sup> Between 2013 and 2018, 58% of asylum claims in immigration courts nationwide were denied. Over the same period, the denial rate at Stewart was 94%. See Simon Montlake, *Long Shot Lawyer: Defending Migrants in US's Toughest Immigration Court*, CHRISTIAN SCIENCE MONITOR, Apr. 22, 2019, <https://www.csmonitor.com/USA/Justice/2019/0422/Long-shot-lawyer-Defending-migrants-in-US-s-toughest-immigration-court> (citing Syracuse University's Transactional Records Access Clearinghouse).

<sup>4</sup> A positive outcome is defined to include the following outcomes: administratively closed, administratively closed due to prosecutorial discretion, background check remand, grant with no remand, remand, appeal sustained, or termination.

<sup>5</sup> U.S. Department of Justice, *A Ten Year Review of the BIA Pro Bono Project: 2002-2011*, [https://www.justice.gov/sites/default/files/pages/attachments/2015/11/17/bia\\_pbp\\_eval\\_2012-1-13-14.pdf](https://www.justice.gov/sites/default/files/pages/attachments/2015/11/17/bia_pbp_eval_2012-1-13-14.pdf).