

Removal Defense Program Procedures Manual

Cases that fall under the CDSS funding would be accepted at no cost to the client. The client has to meet the income and other grant requirements to receive representation at **no cost through CDSS. CDSS's income requirements are 250% below the poverty rate (see income reporting sheet)**. Clients that do not meet the income requirements under CDSS funding are required to pay a low fee for RDP services (see CCDS's Fee Service List). The client is always responsible to pay for any required government filing fees. CCDS does not have funds to cover government filing fees.

Fee Schedule: See CCDS's Fee Service List for specific fees.

CDSS Funding:

CCDS Fees: \$0

Filing Fees: client's responsibility (filing fees depend on type of immigration benefit)

Non-CDSS:

Catholic Charities Fees: See CCDS fee list.

Filing Fees: client's responsibility (fee depends on type of immigration benefit)

No Outcome Guarantee:

Catholic Charities, Diocese of San Diego, its staff and volunteers **CANNOT** guarantee an outcome on any case.

Type of RDP Services Provided:

CCDS's RDP services are offered to both detained and non-detained clients in San Diego and Imperial Counties..

Detained/Non-Detained Cases:

- Asylum, Withholding, CAT
- Bond Hearings
- LPR Cancellation of Removal
- Non-LPR Cancellation of Removal
- VAWA Cancellation of Removal
- Special Rule Cancellation
- Other Removal Cases:
 - Examples of other removal cases: people with pending applications (I-130s, VAWA, U Visa, etc.)

Appeal Services: Appeal services are only available for CCDS clients (individuals that we assisted with initial filings). At this moment we cannot take appeal cases for non-CCDS clients

(individuals that had removal cases filed by private bar attorneys or other nonprofit legal service providers). We will review any appeal case from current client on a case to case basis. We cannot guarantee anyone (current or prospective clients) that we are going to take an appeal case.

- BIA* (see fee list)
- 9th Circuit* (see fee list)

*Appeal services would not be considered until the IJ makes a decision on a case. CCDSO will make a determination in regards to whether we can file an appeal. The client will have to sign a new service agreement if both, CCDSO and client, decide to appeal the case. If the case has to be appealed to the 9th circuit, we have to repeat the same process. We cannot guarantee clients representation with appeals.

Services are limited to San Diego and Imperial Counties:

Applicants for services need to reside or have a case pending in the immigration courts of San Diego or Imperial Counties. If the client moves outside of the San Diego and Imperial Counties, we will no longer be able to represent them. If we are the attorney of record, we will ask the court to allow us to withdraw. Prospective clients should always know this before they sign an agreement for services. Services for detained individuals are limited to individuals detained at the Otay Mesa Detention Center and the Imperial Regional Detention Facility.

Screening Process:

Applicants who call the office will have to provide some basic information to the clerk (internal referral sheet). The clerk will place those sheets in the Removal Defense Program's inbox or send via email to the Removal Defense team, Luis Gonzalez and/or Kara Watkins.

Phone Pre-screenings

The removal defense team will conduct a phone pre-screening after receiving the "internal referral sheet." If it is determined that an in-person screening is required, then an appointment will be scheduled for the individual to come in to one of our offices for a full screening with a member of the removal defense team. In-person screenings for non-detained clients are to be requested if the RDP team has indications that the individual might be eligible for relief and/or if additional information is required in order to make that determination. All screenings for detained clients are to be made in-person at the detention center.

Clinic Pre-screenings

Applicants at legal clinics where CCDSO participates will be pre-screened by a member of the removal defense team. If it is determined that an applicant requires a full screening, then an appointment will be scheduled for the applicant to come in to one of our offices to meet with a member of the removal defense team.

Walk-ins at a CCDS Office

Individuals who walk-in to any of our offices will have to provide her or his information to the clerk (complete internal referral sheet). A member of the removal defense team will call the applicant to do a pre-screening over the phone. If it is determined that an applicant needs a full screening, then an appointment will be scheduled for the applicant to come in to one of our offices for a full screening with a member of the removal defense team.

Screenings by Volunteers

Any non-attorney or non-DOJ fully accredited representative that screens an applicant must consult with the removal defense attorney or DOJ full accredited representative when she or he completes a screening. Volunteers who are **NOT** attorneys or fully accredited representatives cannot provide legal advice to applicants at any stage of the process. When a volunteer screens a case, the removal defense attorney, DOJ full accredited representative, and/or the Department Director will make the decision about accepting, denying, or referring the case.

Detained Individuals: Otay Mesa Detention Center and Imperial Detention Facility Only

Detained individuals will call or mail a request for assistance to CCDS (letter via mail, etc.).

Phone Calls from Detained Applicants: If the detained individual calls, the person answering the phone should complete the “**internal referral sheet**.” That form should be placed in the Removal Defense Program’s inbox, or sent via email to the removal defense team, Luis and/or Kara.

Request for Services via Mail from Detained Applicants: Sometimes detained individuals mail requests for services. All requests should be forwarded to the removal defense team.

Detained applicants will be visited by a member of the removal defense team. The applicant will be screened at the detention facility.

Denials/Referrals

Denials: If the removal defense attorney, DOJ fully accredited representative or the Department Director determines that we cannot take the case, the individual requesting services will receive such decision during the screening. In some circumstances, the decision will not be made during the screening process and the person will be notified after, in a timely manner. That may happen if legal research or the opinion of the rest of the removal defense team and/or Department Director is needed. Individuals that need to wait for a decision should receive a decision in 1-2 weeks. The decision can be in person, via phone call or through a letter sent to the address provided during the screening or as listed on the application for services.

Referrals: CCDS does not have the capacity to represent all individuals that seek services and that have viable claims for relief. When this occurs, a qualified referral to other CDSS funded legal service providers in San Diego County will be made. The individual will be asked to sign a

document giving CCDS D permission to make such referral. Referrals will be made on a case by case basis. CCDS D does not guarantee that another legal service provider is going to be able to provide representation. The individual will be encouraged to continue looking for legal representation while she or he awaits a decision from the referral agency.

Direct Referrals from Staff: Staff can make direct referrals by emailing the internal referral sheet to the removal defense team. Referrals will follow the same procedure as listed above. A phone pre-screening will be conducted and a full screening, if needed. In addition, Case Managers that have cases that may or will end up in removal proceedings can send a request for assistance to the removal defense team via email or during any office hours established by the removal defense attorney.

Accepted Cases

When a case is accepted for representation, the case will be assigned to an attorney or a DOJ fully accredited representative. The client will have to sign the following documents (all clients):

- Service Agreement
- G-28
- Consent to Release Information
- Conflict of interest Statement (if applicable)

Signing the G-28 is particularly important for detained clients since we have limited access to them. ICE will not provide any information if a G-28 is not on file.

Decision to Accept Cases:

Only the removal defense attorney, DOJ fully accredited representative, and the Department Director can make the final decision about accepting a case. The DOJ fully accredited representative should consult with the removal defense attorney or Department Director before making a final decision.

Capacity to Accept Cases:

CDSS funding is limited; CCDS D was funded to file a specific number of cases and to conduct a limited amount of consultations. Once CCDS D meets all of its CDSS deliverables, CCDS D can decide to stop accepting *pro bono* cases under such funding. When this occurs, individuals will be required to pay office fee as listed on the fee service list.

At times the RDP team may deny services based on inability to take on new cases due to capacity. The RDP team's capacity will be assessed weekly during case review and will be discussed with the Department Director. Internal capacity to take on new cases is important as it will ensure that CCDS D is providing the best service and representation to those it is assisting. CCDS D can decide to temporarily stop taking cases for an indicated period of time. Any caps will be immediately communicated with all CCDS D Immigrant Services staff. During temporary pauses in RDP services, internal referral sheets for RD services will still be collected from

individuals and phone pre-screenings will still be conducted. Referrals to other agencies will be made.

Terminating Representation:

Client will receive a letter from CCDSO when representation is terminated. *Who can terminate representation? When?*

Termination by Client:

- A client can terminate representation at any time during representation. If the case is pending before an immigration judge, CCDSO needs to file a motion to withdraw or the client can have the new attorney file a motion to substitute. It is very important to know that when we are the attorney of record in removal proceedings, we will continue to be the attorney of record until a motion to withdraw or substitute is filed and granted by the immigration judge. The motion can be in writing or oral at a court hearing.

Termination by CCDSO:

- When the Immigration Judge or USCIS makes a decision on the case.
- When a conflict of interest arises.
- When client lies or provides inaccurate information to CCDSO's staff or volunteers.
- When client does not cooperate, meaning that client cannot be located or is not providing the information or evidence needed to move forward with her or his case.

Opening Removal Defense Cases:

All cases should have a physical file and an electronic file in e-Immigration.

Physical File:

The physical file should be on a hanging file folder. The hanging file folder should have a tab with the client's name and e-Immigration case number. The hanging folder should have sub-file folders. One for attorney work product (AWP) and one for any type of relief we are seeking. For example, if there is a case for cancellation of removal and bond, we should have a file for cancellation of removal and one for bond. It is important to keep documents separate because proceedings are separate. Mixing documents could lead to confusion in regards to what has been filed in a case. It is important to note that the immigration judge will not take into consideration evidence filed in a bond hearing during the merits hearing for cancellation of removal or any other type of relief.

E-Immigration File:

Every case requires detailed notes that are documented in E-Immigration. This is to include all communications with the client, family members, the trial attorney, etc. This is important

because removal cases have time sensitive deadlines that cannot be extended. If a person that is working on a case is sick or out of the office for other reasons, having detailed case notes will allow another person to easily see the status of the case.

All consultations need to also be added into e-Immigration. When conducting a consultation for a new CCDSD client, a client profile will be created. For all RD consultations, a consultation case will be created. A copy of the completed intake and/or screening tool will be added in the documents section. Case notes are to also be added in the logs section. Case notes will include the following:

- Where the consultation was conducted
- A brief summary of the individual's request
- A brief summary of what was discussed
- Relief identified, if any
- Next steps

Removal Defense Program Case List:

All CCDSD staff or probono attorneys working on removal cases must maintain an updated case list at all times. The case list has two tabs for open cases. One is for detained cases and the other for non-detained cases. The CCDSD staff or probono attorney assigned to the case is responsible for updating that case list. It is important to keep the list up to date as it is another tool that can be used to get a quick update about a case status.

The case list also has a consultation tab. All consultations are to be included in the case list. It is a way for us to keep track of the number of consultations being conducted and billed to the CDSS grant, but also to have an understanding of the need for potentially expanding the RD program, if applicable.

The RD attorney and/or the Department Director will be provided with a copy of the case list as any given time for case review and quality assurance purposes.

Closed Cases:

All cases that are closed for any reason should be closed on e-Immigration. The physical file should be moved to the closed filing cabinet, and the case information needs to be listed on the closed tab on the case list. Closing case notes should be included on e-Immigration. The client needs to sign a letter stating that her or his case is now closed with CCDSD Immigrant Services and that CCDSD is no longer representing her or him in any immigration matter.

*****If you have any questions about this "Procedures Manual," please contact the removal defense attorney or the Department Director. *****

***** This "Procedures Manual" will be regularly updated. *****