

## AMERICAN BAR ASSOCIATION Immigrants' Right to Counsel

The American Bar Association supports meaningful access to legal representation for immigrants. In immigration matters the stakes are very high and the consequences of removal are severe. Removal may result in long-time U.S. residents' permanent separation from their family and community. For asylum seekers, deportation means returning to life threatening conditions. Asylum seekers and others who have legal representation are significantly more likely to succeed in their immigration cases. Representation is therefore crucial – the outcome of an immigration case should be based on the merits, and not on an individual's income level.

- **The ABA supports the *due process right to counsel* for all persons in removal proceedings, and the availability of legal representation to all non-citizens in immigration-related matters**
- **The ABA supports availability of legal rights (“legal orientation”) presentations for all people in removal proceedings**
  - Legal rights presentations promote judicial efficiency
- **The ABA supports the screening of indigent individuals for eligibility for immigration relief; if relief is available, such individuals should be referred to pro bono or appointed counsel**
  - The number of people potentially eligible for relief is low, so appointing counsel for indigent individuals with potential relief would not require significant resources
- **The ABA supports the appointment of counsel and guardians ad litem for unaccompanied alien minors and the mentally ill and disabled in all immigration matters**
  - These groups are particularly vulnerable and face a variety of obstacles to accessing counsel
  - If representation by pro bono attorneys or Legal Services-funded or charitable agencies is unavailable, counsel should be provided at government expense
- **The ABA supports overturning the requirement that representation in removal proceedings is “at no expense to the government” to allow judges to appoint counsel at government expense in appropriate limited situations**
- **The ABA supports improved access to counsel for asylum seekers**
  - Detained asylum seekers should have full, meaningful physical and telephonic access to their legal representatives, and access to accurate lists of legal service providers
  - All immigration court proceedings should be completely and accurately interpreted, including all testimony
  - Unrepresented asylum applicants should be permitted to submit applications in a language other than English
  - Counsel should be permitted to enter limited appearances for bond and custody proceedings
- **The ABA opposes the involuntary transfer of immigration detainees to facilities if the transfer would impede an existing attorney-client relationship**
- **The ABA opposes the housing in, and transfer of, immigration detainees to remote locations where legal assistance in immigration matters is generally unavailable**
- **The ABA opposes legislation that would limit the rights of persons subject to immigration proceedings to retain counsel and enjoy meaningful representation**