



PREPARING TO MANAGE AN IMMIGRATION LEGAL SERVICES PROGRAM



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Starting an Immigration Legal Services Program

Current capacity does not meet current demand for low-cost legal representation in immigration matters.

It is expected that any significant changes in current immigration law will greatly increase demand for services.

Lawyers working in private practice and at nonprofit agencies are the major legal service providers to persons in need of legal representation, including non-citizens seeking immigration-related services. Lawyers specifically concentrating in the field of immigration law include thousands of members of the American Immigration Lawyers Association, as well as thousands of others who focus on immigration law as their primary practice area.

For low-income immigrants, however, legal representation through the private bar is often not an affordable option.

Many immigrants seek services from nonprofit and community-based agencies, many of which are faith-based and often provide a wide array of both social and legal services. In many instances, these agencies are staffed by non-attorney legal workers who provide both counseling and direct services to clients. In the field of immigration law, non-attorney legal workers may be authorized to provide legal services to the same extent as an attorney if they become what is known as an “accredited representative” and work for a nonprofit agency that has applied for and received “recognized agency status” by the Department of Justice.

This guide serves as an introduction to the considerations a non-profit might make when contemplating opening an immigration legal services organization.

Unauthorized Practice of Immigration Law (UPIL)

By joining CLINIC's network, you are part of a dedicated network of Catholic and community-based legal immigration programs which provide quality and affordable immigration legal services. Prior to agreeing to accept the terms and conditions of affiliation with CLINIC, please review the items below to ensure you understand how to avoid the unauthorized practice of immigration law.

What is Unauthorized Practice of Immigration Law?

Unauthorized Practice of Immigration Law (UPIL) is the practice of immigration law conducted by someone who is not an attorney or a Department of Justice (“DOJ”) accredited representative.

Immigration law is unique as it can be practiced by attorneys and also non-attorney representatives. Non-attorney representatives must be accredited and work for an office that is recognized by the Department of Justice, [Executive Office for Immigration Review](#). Organizations interested in providing immigration legal services should be familiar with the limitations staff or volunteers have when providing immigration legal services to ensure they do not engage in UPIL.

Where can I find resources on UPIL?

CLINIC has several available resources on UPIL. CLINIC offers a short document on the [basics of UPIL](#) that covers the types of immigration legal services work that a person who is either not an attorney or who does not have DOJ accreditation can and cannot assist with. Additionally, CLINIC offers a [toolkit on unauthorized practice](#) that covers how to get qualified immigration legal help, how to avoid scams, how to report notario fraud, and other advocacy resources.

Those interested in offering immigration legal services are obligated to ensure an organization does not unknowingly engage in UPIL.

What is the UPIL complaint process in my state?

States have differing statutes when it comes to reporting the Unauthorized Practice of Immigration Law as well as the practice of using ‘immigration consultants’ and ‘immigration assistance providers’. Review this [State-by-state Overview of Legal Mechanisms to Combat Deceptive Practices](#) to learn how your organization can support clients who have been victims of UPIL.

How can I prepare staff and volunteers on best practices against UPIL?

- Read/review your state's guidelines on UPIL.
- Be able to distinguish the different types of help an authorized and unauthorized person can offer to the immigrant community.
- Know the proper channels to report a scam, fraud, or unauthorized practice of law.

- Be transparent about your limitations if you are not an attorney or DOJ accredited representative.
- Always act in the best interest of community members and do not provide legal advice unless you are authorized to do so.
- Stay up to date on trainings and changes to immigration law and policies if you are authorized to practice.
- Renew your DOJ accreditation and recognition in a timely manner so the status does not lapse.

Is Providing Immigration Legal Services Right for Your Organization?

Providing immigration legal services (ILS) can be an important benefit to your community and those you serve. Immigration legal services can help reunite families, provide community members with legal status, and help immigrants become U.S. citizens. By providing affordable and high-quality services you will be helping your clients apply for immigration benefits while protecting them from notarios or other exploitative services.

Deciding to begin immigration legal services is a significant commitment. If done incorrectly, providing this type of service can have devastating consequences for those whom an agency seeks to assist. Below is a list of key questions and considerations each organization needs to think about carefully before beginning to develop an immigration legal services program.

KEY QUESTIONS

Whom will you serve? What is the need in your community? Who else is already providing immigration legal services?

These are fundamental questions you should make sure you understand before embarking on your journey to establish an Immigration Legal Services program. The answers to these questions will inform what your program looks like.

What services will you provide?

It is important to know what services your future clients will seek and what is already provided in your community. Many programs begin to offer a small roster of services, such as N-400 assistance, the first

few months of opening. This allows the program to test out policies, procedures, documents, and case tracking mechanisms, before increasing the services offered. It is vital that a program decide which cases to accept and which to refer elsewhere, instead of accepting whatever type of cases clients present to staff.

How will you provide qualified legal services?

To provide immigration legal services, you must either have an immigration attorney on staff OR your organization must be recognized and have at least one accredited staff member under the Department of Justice recognition and accreditation program. It is critical that your staff understand what [Unauthorized Practice of Immigration Law](#) (UPIL) is and how to avoid it.

Where will you serve clients? How will you maintain confidentiality?

Making sure you have adequate and appropriate office space to serve clients, maintain confidentiality, and store records is crucial to the success of your program.

How will you handle cases that are beyond your capacity?

Immigration law can be extraordinarily complicated and mistakes can have serious consequences for applicants and their beneficiaries. Your organization will encounter cases that you do not have experience or knowledge to adequately handle. It is important to understand you encounter these cases and to have a list of other reputable legal service providers available to whom you can refer clients.

How will you fund and sustain this program? Do you have a long-term business plan for this program, so that you are thinking in terms of both short-term and long-term goals and objectives?

Successful programs take the time to sketch out a short-term (1-3 years) and a long-term (3-5 years) plan for their immigration legal services program. This allows for thoughtful growth and expansion and increases the likelihood of sustainability.

Does leadership and staff support this program? What are they willing to do to fund, promote, and support the work?

Without leadership support, an immigration legal services program will struggle. It is important that the Board, agency leadership, and agency staff understand the need for immigration legal services, the resources needed to sustain quality services, and the liability incurred by offering the services.

Should Our Organization Look Into Recognition and Accreditation as an Option?

If your organization is in the process of discerning whether to pursue Department of Justice Recognition and Accreditation, the following questions might shed some light on the requirements, benefits and obligations that come with recognition and accreditation before the Department of Justice.

The Department of Justice Recognition and Accreditation (DOJ R&A) is a program that allows non-attorneys to practice immigration law through non-profit agencies. An individual approved to practice law under this program is called an accredited representative. Non-profit agencies who want to utilize accredited representatives must receive DOJ recognition.

What are the basic requirements for an organization to become recognized?

To be approved for DOJ recognition, an organization must demonstrate that:

- They are a non-profit;
- They serve low-income individuals, and
- They have sufficient legal support to provide sound immigration advice.

Does an organization need an attorney to qualify for recognition?

Non-profits which do not have attorneys on staff can apply for recognition. Their applications require additional information to prove they have sufficient legal support. To meet this burden, CLINIC can provide a Technical and Legal Support Letter. This letter

demonstrates that, with the assistance of CLINIC, the organization has adequate legal support to qualify for DOJ recognition.

What are the basic requirements for staff to become accredited?

To be eligible for accreditation, an individual must have:

- Sufficient knowledge of immigration law,
- Be in good moral standing, and
- Plan to only practice law through a DOJ recognized organization.

Knowledge and competency of immigration law is demonstrated through taking several immigration-based courses, including at least course on the fundamentals of immigration law, procedure, and practice.

How much immigration law does someone need to know to qualify for initial DOJ accreditation?

Decisions issued by the DOJ require candidates for accredited representative status to have a broad knowledge of immigration law and procedure. This means that they need to have an immigration law background that enables them to spot issues or remedies that may relate to services not provided by their agency. For example, even if their agency does not represent asylum applicants, the DOJ wants to know that you have enough knowledge of immigration law to recognize when this remedy may apply to someone they counsel. CLINIC recommends taking 5-6 immigration courses in addition to the one fundamentals course.

How does CLINIC help with training?

CLINIC offers sufficient training to satisfy all the DOJ accreditation requirements. CLINIC's most utilized, formal course is called the Comprehensive Overview of Immigration Law (COIL) and is offered several times a year.

What are the benefits of accredited representatives in an organization?

The R&A Program was designed to increase legal immigration services for low-income individuals. Accredited representatives can be volunteers or employees of the organization. Since a law degree is

not a requirement, DOJ accreditation creates more opportunities for individuals to practice immigration law. As such, they greatly increase program capacity.

What are the benefits of accredited representatives to the community?

The need for affordable immigration legal services is high and continues to rise. Immigration law fraud is common in the United States. The R&A program ensures that accredited representatives offer quality legal advice. The R&A program increases the availability of legal services for low-income immigrants and helps protect our communities against fraud and scams.

What are the legal capabilities of an accredited representative?

DOJ accredited representatives are generally authorized to do the same work as an attorney, so long as the work falls under the umbrella of immigration law, specifically, and not another area of law. There are two types of accredited representatives, partially accredited and fully accredited.

Partially accredited representatives may file cases under the jurisdiction of the Department of Homeland Security (DHS) only. DHS accepts affirmative action cases and court proceedings are not involved.

Fully accredited representatives may file cases with DHS or with the Executive Office for Immigration Review (EOIR). These cases include both affirmative and defensive cases, and immigration court may be involved.

How does CLINIC assist with legal support and R&A applications?

CLINIC offers hand-on assistance to their Affiliates in various ways. Affiliates can ask legal questions and request case assistance, and they can ask for program

management or R&A application support. Affiliates can submit an entire R&A application to CLINIC for review and feedback. Additionally, CLINIC provides detailed [DOJ R&A Toolkits](#) and offers regular [training](#) regarding changes in immigration law and policy.

What happens after R&A applications are approved?

Recognized organizations and accredited representatives should be prepared to track data for renewals of R&A. Accreditation must be renewed every three years. Recognition is conditionally valid for two years and must be renewed every six years after that

Ongoing training is a requirement for DOJ accreditation renewal. CLINIC's [training calendar](#) and website provide extensive materials to assist in maintaining training requirements and having up-to-date information about DOJ R&A policies.

Financial Management and Funding FAQs

Effective financial management is essential for the sustainability of an immigration legal program. Explore the following frequently asked questions to learn more.

How do I fund my program?

Most nonprofit organizations rely on a mix of revenue sources. For most of our network, the majority of their revenue comes from fee-based services and grant funding. Other funding sources may come from individual donors; agency subsidies; and federal, state, and local grants.

Should I rely on donations only?

No. Donations can be irregular and hard to predict. Successful programs have diverse funding sources that are consistent and predictable.

Should I develop a budget?

Yes, a budget shows how much it will cost to carry out activities and where the resources to support those activities will come from.

How do I develop a budget?

There are two main parts of the budget: revenues and expenses. When developing a budget, the first step is to assess revenue projections. Ask yourself the following questions: Do you anticipate changing your service fees? Do you anticipate donations to decrease? Will you apply for any grant or foundation money?

The second step is to anticipate expenses. Ask yourself the following questions: Is the lease coming to an end? Do you need to update equipment? Has demand grown enough to warrant additional staff?

The third step is to compare projected revenues with projected expenses. If expenses are greater than revenues, then you must either find more resources or cut expenses. Remember that additional revenue may impact expenses, and cutting expenses may impact revenue.

For more information on how to prepare a budget, review Chapter 6 in our [Managing an Immigration Program: Steps for Creating and Increasing Legal Capacity](#) manual.

Does CLINIC provide seed money?

No, however, we sometimes provide flow-through funding opportunities to selected agencies. These opportunities are sporadic and hard to predict.

Should I charge service fees?

Many programs depend on client fees to ensure fiscal viability and program sustainability. Most of the Affiliates in our network charges service fees.

How should client fees be calculated given the program's budget?

Though there are many factors used to determine service fees, the first step is to survey other local nonprofit programs to ensure that your programs' fees are consistent. It is important to note that your agency's fees should be below for-profit rates.

For more information on how to calculate fees, review Chapter 6 in our [Managing an Immigration Program: Steps for Creating and Increasing Legal Capacity](#) manual.

Should our program accept cash as payment?

No, cash payments make it easier for staff to lose or misappropriate funds. Programs may choose to accept payment via check, money order, or credit card.

Should we offer payment plans or should we require payment of the entire service fee upfront?

There is not one right way to collect payments; however, be sure to create a clear and consistent system that works for your program.

Should we offer fee waivers or sliding scale fees?

Many programs offer free or sliding scale services for some of their clients. Though there is no right way to do this, but it is vital that your agency develop clear procedures about how and by whom waivers are granted.

Note that if your agency is recognized by the Department of Justice and charges fees, you are required to have a written policy for fee waivers or fee reductions to accommodate clients who are unable to pay the fees.

You can find sample fee waiver or fee reduction documents in Section IX of our [DOJ RECOGNITION AND ACCREDITATION A Step-by-Step Guide for NonProfit Community-Based Agencies](#).

How do I know when to raise fees?

Flat fees and sliding scales of payment are both allowable methods of payment for a 501(c)3 organization. The IRS does allow fees to be increased when deemed necessary. Fee increases should be based on a measurable factor, such as rise in cost of living or inflation. Fee increases can also be made in an effort to match fees charged by other local 501(c)3 organizations. Finally, fees can be increased as long as they remain lower than those charged by non-tax-exempt organizations or if the fees charged remain lower than the cost to the organization to provide the service.

Should I have clear, written procedures for accounting and financial activities?

Yes, clear procedures promote financial integrity, provide clarity to staff, reduce the possibility of errors and embezzlement, and allow for quick identification of discrepancies.