

U.S. Immigration Services Improves Access to Legal Counsel for Immigrants

Published on Sun, Jan 22, 2012

During its nine-year history, issues have arisen with respect to restrictions on counsel by the Department of Homeland Security's immigration agencies. Tuesday, in response to calls from the American Immigration Council and the American Immigration Lawyers Association, the U.S. Citizenship and Immigration Services (USCIS) issued immediate, comprehensive changes to their policies to ensure an appropriate role for attorneys in the immigration process.

Many non-citizens are forced to navigate the immigration process without representation because they cannot afford an attorney. But even persons who can afford one, or are represented by a pro bono attorney, have at times faced severe restrictions on their representation. This is particularly troublesome given the significant power USCIS officers wield. For example, they decide whether a non-citizen is entitled to stay in the U.S. or not. The assistance of an attorney well versed in the complexities of immigration law can help safeguard the rights of these non-citizens and ensure just outcomes.

By revising its guidance, USCIS has responded to some of the most serious access concerns. For example, the new guidance provides that an attorney generally may sit next to his or her client during an interview, may be permitted to submit relevant documents to the USCIS officer, and may raise objections to inappropriate lines of questioning.

The American Immigration Council looks forward to commenting on the new guidance and working with the agency to make sure it is followed. The other immigration agencies - Customs and Border Protection and Immigration and Customs Enforcement - should take note of USCIS's commitment to improving access to counsel and take similar steps to recognize the meaningful role that attorneys play in protecting noncitizens' rights.

Published in the Hispanically Speaking News

Source URL:

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