

CHAPTER THREE

Staffing Your Immigration Legal Program

Learning Objective: *To become aware of all staffing choices including BIA accreditation and using volunteers.*

Staffing Choices

Nonprofit immigration legal programs have a range of staffing options. Programs may employ attorneys, law graduates, Board of Immigration (BIA) fully accredited representatives, BIA partially accredited representatives, non-accredited immigration counselors, support staff, development staff and interns. Any of one of these staffing options can also be done by volunteers.

Some programs employ everyone on the preceding list; some one or two. Each of these differently credentialed staff may perform somewhat different functions; a program manager must determine the staffing mix that works best for her or his agency. Factors that will influence your decision include the types and volume of cases you wish to handle; your budget; whether or not your agency is recognized by the Board of Immigration Appeals (BIA); and avoiding unauthorized practice of law. Programs change and grow, so your staffing mix may evolve over time.

We begin this chapter by exploring the different possible functions of each of the above staff members. Because many immigration legal services programs grow out of existing social service or refugee resettlement agencies, we will consider how to retrain existing staff to do immigration work. Following that, we will discuss the considerations that go into hiring new legal staff. We will then address supervision of legal staff (including supervision of attorneys by non-attorneys), effective use of staff, and ongoing staff training and development. Finally, we will look closely at effective recruitment, hiring, and use of volunteers, from interpreters to pro bono attorneys. The following chapter (Chapter Four) will explain how to obtain BIA recognition for your agency and accreditation for your non-attorney staff.

Credentials and Functions of Immigration Staff

Below are the different possible types of staff at a nonprofit immigration legal program, along with a description of their required credentials and possible functions.

Attorneys

Attorneys have the widest latitude, in terms of client representation, of all legal staff. Attorneys may represent clients before all three branches of the Department of Homeland Security (DHS), as well as before the Immigration Court and Board of Immigration Appeals. Depending on where they are admitted to practice, attorneys may also represent clients in state and federal courts.

To practice immigration law, an attorney must be a member in good standing of the bar of the highest court of any state, possession, territory, or commonwealth of the United States, or the District of Columbia. Note that it is generally not necessary that an attorney be admitted to the bar in the state in which she practices immigration law, merely that he or she be admitted to a bar. This is because immigration law is federal and does not differ from state to state.

Law Graduates

A law graduate has graduated from law school but has not yet met any state's requirements for becoming a lawyer. That generally means passing a bar examination and passing a character and fitness review by the state licensing authorities. Law

graduates generally may not represent clients in state or federal court, but may practice immigration law before U.S. Citizenship and Immigration Services (USCIS) and Executive Office of Immigration Review (EOIR), subject to certain limitations.

In order to practice immigration law, a law graduate must be supervised by a licensed attorney or an accredited representative, and must file a statement that she or he is appearing without direct or indirect remuneration from the alien represented. Any Notice of Entry of Appearance (whether a G-28 before USCIS, an EOIR-28 before the Immigration Court or EOIR-27 before the BIA) signed by a law graduate must state that the graduate is being supervised by a licensed attorney or accredited representative. Law students and law graduates may or may not be able to represent clients on their own before USCIS or the Immigration Court; it would be up to an individual USCIS officer or Immigration Judge to decide whether or not to allow the law graduate to appear on the client's behalf, and whether or not the supervisor would need to be present at the interview or hearing.

Accredited Representatives

An accredited representative works or volunteers for a nonprofit and has been granted authorization by the BIA to represent individual clients of that nonprofit in immigration matters. Accredited representatives may be "fully" or "partially" accredited.

Fully Accredited Representatives: May represent clients before all branches of the Department of Homeland Security (DHS). The three branches are: US Citizenship and Immigration Services (USCIS; (deals with granting immigration benefits inside the United States); Immigration and Customs Enforcement (ICE; enforces immigration laws within the United States); and Customs and Border Protection (CBP; enforces immigration and customs laws at the border). They may also represent clients before the Immigration Court and BIA. They may not represent clients in courts other than Immigration Court and BIA. The requirements and procedures for accreditation are discussed in Chapter Four.

Partially Accredited Representatives: May represent clients before all branches of DHS. They may represent clients at DHS interviews, communicate with DHS officers about their clients' cases, and sign G-28s for their clients. They may not represent clients in Immigration Court or before the BIA.

Law Students

Law students may represent clients, but only as part of a legal aid program or clinic conducted by a law school or nonprofit organization. Law students must be supervised by a law faculty member, licensed attorney, or accredited representative, and may not be paid directly by the client. At a hearing or interview, the DHS officer or Immigration Judge must give permission in order for the law student to appear, and as with law graduates, may require that the supervisor accompany the law student.

Non-Accredited Staff

Every non-attorney staff member starts out as non-accredited, since only the nonprofit employing that staff member may seek that staff member's accreditation. Non-accredited immigration staff play a vital role in helping an immigration legal program deliver competent legal representation. Non-accredited staff typically work under the supervision of an attorney or accredited representative. They may conduct intake, interview clients and prepare applications and supporting documentation, and conduct citizenship classes and group processing workshops. Non-accredited staff may not represent clients at DHS or EOIR; may not file Notices of Appearance; and may not communicate directly with DHS or EOIR about a client's case outside the client's presence.

Any non-accredited staff who work on immigration matters should receive some kind of training and/or mentoring on immigration law and procedure.

Support Staff

Support staff can help a program function more efficiently and professionally, freeing immigration legal staff to spend more time on substantive work and less on copying and mailing applications. They may also be very helpful in setting up appointments, collecting fees, and answering the main phone line.

Business Manager

Some larger programs are lucky enough to have a business manager who takes care of financial matters as well as equipment and ordering.

Interns and Volunteers

Interns and volunteers can be extremely useful, although finding and using them requires time and resources. Depending on their level of knowledge and commitment to the work, interns and volunteers may be able to take on some legal work—especially if they are law student interns. You will need to ensure to provide careful supervision to any interns who handle legal work. Volunteers and interns can also take on some of the tasks of non-accredited staff and/or support staff. Recruiting, training, and supervising interns and volunteers takes time, but they can end up saving the agency time.

The role of volunteers in a possible comprehensive immigration reform will be huge. Programs are well advised to consider getting competent and committed volunteers BIA accredited.

Business Manager's Duties

“Our program has a business manager whose time is split between our immigration and refugee resettlement programs. She handles time sheets, places orders with suppliers, handles deposits and billing, deals with technology and equipment needs, and supervises the receptionist and file manager. This frees up the immigration staff to do more immigration work.”

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

Possible Job Descriptions for Immigration Staff

Immigration Program Director: (may be an accredited representative, an attorney, or possibly neither): Responsible for management and administration of immigration legal service program. Oversees department staffing to ensure effective and competent delivery of services. Monitors all administrative policies and procedures for effective delivery of services. Identifies and pursues funding opportunities for department. Prepares and manages program budget. Responsible for community outreach and networking.

If the Immigration Program Director is neither an accredited representative nor an attorney, it is advisable for her or him to have some basic knowledge of immigration law. While he or she may not know enough to provide representation her or himself, it is important that he or she understand the basic parameters of the work the immigration staff do. It is a good idea for him or her to become accredited.

Senior Immigration Counselor: (Fully or Partially Accredited Representative): Responsible for representing clients before USCIS and/or EOIR. Prepares applications and petitions for submission to the appropriate agency. Participates in community outreach and educational activities.

Immigration Counselor: (not accredited): Responsible for preparing applications and petitions for submission to the appropriate agency. Does client intake; works directly with clients to prepare applications. Assists accredited representatives and/or attorneys with casework.

Administrative Assistant for Immigration Program: Copies and mails applications; answers phones; sets up intake appointments; collects fees.

Supervising Immigration Attorney (for programs with at least one attorney; note that many nonprofit immigration programs do not have attorneys on staff): Responsible for managing department caseload and supervision of casework. Oversees efforts to strengthen program policies and procedures. Provides in-house training to staff and volunteers. Oversees work of volunteers. Represents clients before the USCIS and EOIR.

Staff Attorney (for programs with at least one attorney; note that the majority of nonprofit immigration programs do not have attorneys on staff): Responsible for representing clients before USCIS and EOIR. Prepares applications and petitions for submission to the appropriate agency. Assists with training and supervision of law students and volunteers. Participates in community outreach and educational activities.

Hiring and Retraining Considerations

Whether or Not to Hire an Attorney

Because of recognition and accreditation, it is not necessary to hire an attorney for your immigration program, but many programs choose to do so. Some of the pros of hiring an experienced immigration attorney include their expertise and ability to handle complex cases; an increased ability to recruit volunteer law students and pro bono attorneys; and the fact that you don't have to have accredited representatives if you have an attorney. If you have the resources to take on cases like removal defense, asylum, and complex criminal immigration issues, you may want an attorney. Having an attorney on staff makes it more likely that you will be able to recruit law students and pro bono attorneys as volunteers. A program that employs attorneys does not need to have accredited representatives, although many programs choose to employ both.

Remember that attorneys are generally the most expensive legal staff to hire, and many programs choose not to hire them for this reason. Some programs, on the other hand, view attorneys as a more financially sustainable staffing investment and a greater source of revenue than accredited representatives, as they can provide a wider range or more complex legal services. The income attorneys generate, however, depends on the type of work they perform and the fees they charge. Note that some outside funding sources, often government grants, require attorney staff.

One option for a program that wants an attorney but does not have the funds to pay for one is to hire a part-time attorney. Note that this may raise possible conflicts of interest if the attorney works at the same time for another nonprofit or private firm, or in solo practice. If your potential part-time attorney is employed elsewhere, you will need to address this possible problem.

What to Look for When Hiring an Attorney

As noted above, an attorney must be a member of the bar in good standing of any U.S. state, possession, territory or the District of Columbia. Each state has a directory of all the attorneys admitted to practice in that state; New York State's, for instance, may be accessed at: <http://iapps.courts.state.ny.us/attorney/AttorneySearch>. Make sure that any attorney you hire is a member in good standing of the bar in at least one state or the District of Columbia.

When you hire an attorney, consider how much background he or she has in immigration law. Just because someone is an attorney doesn't mean he or she knows anything about practicing immigration law. Look at whether or not your candidate has immigration law experience. If so, how much and what kind? If not, has she ever worked as an intern at an immigration law firm or nonprofit? Interns may learn a great deal about immigration law during their internships.

If you are hiring an attorney to manage the immigration program as well as handle and supervise cases, consider as well how much and what kind of management experience the attorney has. A background in immigration law does not mean that an attorney has the skills to manage a program.

Hiring from Outside the Agency

"We rarely hire attorneys from outside the agency. We like to hire attorneys who have interned with us as law students. We get to know them, they get to know us, and we know that they have knowledge and experience with immigration law."

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

Training for an Inexperienced Attorney

If you hire an attorney without immigration law experience, you should budget to send your attorney to several trainings. One experienced attorney who runs an immigration program recommends a training budget of at least \$3,000 per new attorney for the first year. It is unrealistic to think that an inexperienced attorney will be able to learn immigration law entirely on her or his own, and that unrealistic expectation can lead to serious problems for the agency.

Some programs develop relationships, formal or informal, with local immigration attorneys. If you hire an inexperienced attorney, seriously consider helping her or him develop a mentoring relationship with an experienced immigration attorney. Immigration law is complex, and trainings alone are not a substitute for practical experience with the guidance of an experienced practitioner.

Law Graduates

Many programs opt to hire recent law graduates—it is often less expensive than hiring an experienced attorney. It is important to be aware, however, that there is a risk involved: not all law graduates pass the bar exam. Passing a bar exam is necessary to be licensed as an attorney. Some law graduates have to take the bar exam several times before passing, and a few never pass. A program that hires a law graduate expecting that soon he will be a licensed attorney should be aware that this may not happen as quickly as expected, or ever. Remember that a law graduate must be supervised by a licensed attorney or accredited representative in order to practice law. If you want a licensed attorney, realize that hiring a law graduate may not get you that in the time you want.

If you do hire a law graduate who subsequently fails the bar exam, a possible solution is to apply for his or her partial or full BIA accreditation. Some programs choose to do this. Be aware, that an accredited law graduate should not hold himself out as an attorney.

Fully and Partially Accredited Representatives

Because accreditation does not travel from agency to agency, it is not possible to hire an already-accredited representative. Many agencies train existing staff who then apply for accreditation. It is also possible to hire a formerly-accredited representative and then apply immediately for accreditation for that person (and recognition, if the agency is not already recognized).

When hiring a staff member to become an accredited representative, or re-training a current staff member for accreditation, it is worth considering how long you think the particular employee is likely to stay at the agency. Gaining training and experience for accreditation takes some time—as well as agency resources—and hiring someone who's planning to leave within a year or two may not be the wisest use of resources. Once you have put the time and monetary resources into getting a staff member accredited, it is most helpful if that staff member stays at the agency for a while.

Training Current Staff to Do Immigration Legal Work

Many programs do not begin their immigration work by hiring new staff from outside the agency. The majority of programs begin when existing staff start handling immigration cases; these staff then generally attend several immigration trainings and/or work under the supervision of an attorney or accredited representative, and then apply for accreditation. As your program grows, you may decide to hire new staff from outside the agency, but you should also continue to re-train existing staff. Chapter Four explains in detail the requirements for accreditation.

When deciding which staff members to train for accreditation, there are several factors you may want to consider:

- Level of genuine interest in immigration work;
- Aptitude for immigration work, including attention to detail, organization, and good writing skills;
- How likely the staff member is to stay at the agency. You will need to invest time and money in training your staff member, so it is wise to consider how long the staff member will want to stay at the agency;
- Language ability—does the staff member speak languages other than English?

In a new program, you will need to send staff to outside trainings; the section below on Training Sources gives guidance on where to find trainings. Once you have an established immigration program at your agency, with staff that have significant immigration experience, consider developing an in-house training program so that new staff can learn from experienced staff.

To encourage staff with sufficient experience and/or training to apply for accreditation, consider offering a title and salary increase to immigration staff who become accredited. This incentive may encourage staff that might otherwise be hesitant to become accredited.

Our Criteria for Choosing Staff to Apply for Accreditation

“We’re a fairly large agency, with several attorneys and eleven immigration counselors. Four of our counselors are currently accredited. We take accreditation seriously, and we only apply for counselors we really feel are ready. The counselor’s supervisor would have to recommend the counselor, based on the quality of his/her work and what he/she’s capable of. I recommend considering a person you are confident would be able to handle complicated cases. In our office, accredited reps represent clients at USCIS interviews, so I have to be fully confident that a potential accredited rep will be able and willing to do that. I also want to see that a staff member can do some research before I’ll let her or him apply for accreditation; I won’t allow someone to apply who’s always coming to supervisors with questions without having tried to look up answers first.”

– *Director, large immigration services program*

Maintaining Staffing Levels

Staff accreditation requires an agency investment of significant time and money. It costs money to send staff to trainings, and it can take significant time to get a staff member accredited; Chapter Four explains in detail how the accreditation process works. When an accredited representative leaves the agency, he or she takes a lot of knowledge and experience along.

Especially in smaller agencies, it is a good idea to have one or two more people accredited at any time than you absolutely need. That way the program will not be set back when your accredited representative leaves. Loss of an accredited representative costs the agency money in lost fee income, as well as the money it may need to spend to get someone else accredited quickly. Failing to have an attorney or accredited staff member on staff means that your program is engaged in the unauthorized practice of law. This is to be avoided strenuously so make sure someone is accredited even if you fear they will not be staying long. Work to have at least two staff accredited at all times in case one leaves.

How We Assess Staff Readiness for Accreditation

“Our agency has a part-time attorney who supervises the immigration work of our non-accredited staff. Our policy is that staff must work under her supervision for a year before we will discuss applying for that staff member to be accredited. This way we can assess a staff member’s commitment to the program, and feel sure that he or she has been thoroughly trained.”

– *Carol Young, Kentucky Refugee Ministries, Louisville, KY*

When Your Entire Immigration Staff Leaves

If your entire immigration staff leaves—which is a particular danger at programs with only one immigration staff member—your agency is still responsible to the clients whose cases you have taken on. You will need to find a way to handle those cases, either by finding other agencies who will take over the cases, or by hiring an attorney to handle them for you. Your agency has a responsibility to the clients whose cases you have accepted. Again, it is a very good idea to have more than one person on your staff authorized to practice immigration law so that you are not suddenly left with no one.

Staff Challenges at Agencies That Provide Services Other Than Immigration

Wearing More than One Hat: Staff with Multiple Job Functions

Especially at smaller agencies, some immigration staff may have more than one job function. They may do immigration representation part of the time, and other work the rest of the week. For instance, at refugee resettlement agencies, an employee may represent refugees in immigration matters 20 hours a week, and provide refugee case management services the other 20 hours a week. Such job splitting is often necessary in small agencies that don't have a budget to hire full-time immigration staff, but it can lead to special challenges.

When you have staff that split their time this way, it is especially important that other agency staff and clients understand the different parameters and policies for each program. You will need to make it clear to clients what the different expectations are for each program. You will also need to communicate clearly to non-immigration staff how the immigration program works. If you are not yourself the Program Director, you'll best be able to accomplish this if you have the active support of your Program Director.

If your agency resettles refugees, the State Department requires that you report "anomalies" on refugee cases. Especially when you have staff doing both immigration and resettlement work, this anomaly reporting requirement can conflict with the agency's commitment to keep confidential any information learned while doing legal work. If your agency does both resettlement and immigration work—and especially if you have staff doing both—you will need to consider carefully how to reconcile these competing duties.

Ensuring That Only Immigration Staff Do Immigration Work

If your agency has been doing immigration work without a formal immigration program, expect some bumps as you phase in a formal immigration program. If your non-immigration program staff have been used to offering immigration help to clients, it may be challenging to move them away from doing this, and turning all immigration work over to the immigration staff.

Allowing non-immigration staff to do immigration work is a bad idea: with less training and experience on immigration law, they are more likely to make mistakes; doing so will cost the immigration program fee income; and doing so undermines the systems you have set up in your immigration program. Finally, it is important that the immigrant communities your agency serves can expect that all agency clients will receive the same kind of immigration legal service.

If you find that non-immigration staff continue to offer immigration advice or help with immigration applications, set up policies that make it clear who performs immigration work, when, and how. Communicate these policies clearly to staff and don't allow exceptions. Help the staff understand the reasons for the policies. Recognize that it may take some time for staff to understand and fully comply with the policies.

When Non-Immigration Staff "Help" Clients with Immigration Questions

"I was an accredited representative at a refugee resettlement agency; I was the only staff person doing immigration work. One problem I faced was refugee resettlement staff who provided "immigration assistance" to clients. The staff members who did this were former refugees themselves, and so had some general knowledge about certain immigration benefits like adjustment applications and refugee relative petitions. This posed two problems for the immigration program: 1) staff members without training could be giving bad advice to clients—advice that could harm both clients and the agency; and 2) when resettlement staff provided free "immigration assistance," the immigration program lost a potential client and the fees that client would have paid.

To counter this problem, I wrote a policy saying that only staff in the immigration program were allowed to give immigration advice. The Director approved it and it was distributed to all staff members. Additionally, I provided all the job counselors with flyers about the immigration program, along with a request that if a client asked an immigration-related question, the counselors would find me to answer the question. I made a point to keep "reminding" people of this policy at our staff meetings.

It took a while for staff to follow this policy, in part because the employment staff provided "immigration assistance" to save their clients from having to pay for immigration services through my program. But I was able to tell them over and over "this is the policy and it comes from the Director." Finally they knew I would say no when they asked if I could just "see their client and answer a few questions," so they stopped asking; they would say instead "can you please make an appointment for this client." Any agency that confronts this issue will need to work hard to help staff understand and follow rules that only immigration staff may handle immigration questions. This policy would ideally come from the agency director, who would make it a priority that staff understand and follow it."

– Accredited Representative at mid-sized refugee resettlement/immigration services office

No Moonlighting: Ensuring That Your Staff Do Immigration Work Only at Your Agency

Immigration programs that employ attorneys often have policies that specifically prohibit attorney staff from taking on immigration cases outside the agency—known as “moonlighting.” This prevents possible conflicts of interest with the attorney’s work for the agency. It also protects agency staff from stress and burnout.

Programs with accredited representatives should make it very clear to their accredited staff that accreditation allows the accredited representative to represent immigrants **ONLY** under the auspices of the recognized agency that applied for his accreditation. **Accredited representatives may under no circumstances take on cases privately**, or for another agency—unless they are separately accredited at that other agency. One recognized agency was recently devastated to learn that its trusted accredited representative had been taking on clients across the country and charging them high fees to file fraudulent or frivolous applications—and claiming that his accreditation at the agency allowed him to do this. While it may not be possible to completely prevent this from happening, protect your agency by making clear in writing to your accredited staff the scope of their authorization to practice immigration law. See the attached “Prohibition Against Providing Legal Services Outside the Office and Expectations of Employees” on page 61.

Separating Immigration and Other Services

Agencies that add immigration services to existing social services programs, such as refugee resettlement work, may face challenges in re-shaping client expectations. Social service programs may be set up to help clients on the spur of the moment. Immigration programs, on the other hand, need to manage the flow of client meetings and requests so that staff can handle the extensive paperwork required. When non-legal programs in the agency have open-door, emergency-service client policies, it can be hard for clients to understand that things work differently in the immigration department.

Supervision

Nonprofit immigration legal service programs come in many shapes and sizes. Some agencies have attorneys on staff; some do not. Some agencies are headed by attorneys or accredited representatives; some are not. Some nonprofit immigration service providers do nothing but immigration legal work, while at others the immigration department is a small piece of a much larger social services or refugee resettlement agency. An immigration program may have one staff member or twenty. Effective staff supervision presents different challenges in each of these situations.

In every agency, however, there are two aspects of immigration work that need oversight: technical legal work, and adherence to agency case management standards. These are not the same thing, and often it will not be possible for one person to provide oversight and supervision on both. A program director that is not authorized to practice immigration law cannot review immigration legal work, but can and should ensure that the program has a strong case management system and that all legal workers follow it. Chapter Five in this manual explores the many elements of a case management system. Program directors need to ensure that their program has a strong and clearly-defined system for case management, and that staff adhere to it.

Creating Boundaries between Immigration and Other Services

“The agency has always been good at providing social services in the resettlement program—people can walk in to see who they need to see. When we started our immigration program, we had to work hard at putting boundaries between refugee and immigration work. We had to focus on this: the immigration staff can’t have people showing up at the door throughout the whole day. Our attorney came up with the idea of posting signs that require everyone to register with the receptionist. Everyone insists that clients make appointments with the immigration staff and keep those appointments. Our attorney also decided to charge a \$20 fee for all consultations—she feels that if people pay for what they get, they actually respect the service, and bring the documents they need to bring.

Before we instituted this policy, people were used to just walking in, bringing what they wanted when they wanted, not respecting the immigration worker’s time. Now, our immigration program runs more like a professional nonprofit law office, and less like a resettlement office.”

– Carol Young, Kentucky Refugee Ministries, Louisville, KY

Technical Case Supervision

Programs must ensure that their staff are doing competent legal work, that they monitor and encourage staff development, and assess the thoroughness of their services. Effective supervision of cases enables the program to continually strengthen and improve the services it offers clients. There are different ways to supervise cases; the section below reviews several.

No matter which form of case supervision you choose, it is a good idea to foster staff consultation with each other. Encourage your staff to talk regularly with each other about immigration questions and share experiences. Some offices hold regular case review meetings at which staff can compare notes and ask for advice about difficult cases. Your staff can learn a tremendous amount from each other.

Supervisory Review

In programs with supervisors experienced in immigration law, the supervisor will generally review staff immigration work. There are different ways to do this: among them regular staff meetings; individual supervisory meetings; supervisor review of all cases; and supervisor review of selected cases.

Peer Review

If your agency has more than one legal worker, you can set up a peer case file review system. One agency has set up a system by which the accredited representatives meet several times a year to do random checks of each other's files. The agency has developed a case file checklist, and each accredited representative examines random files from other staff to ensure that all the case management procedures have been followed in each file. It is also possible to peer review files to ensure that the legal work has been done correctly.

Peer review does not work well in every agency. One agency with numerous accredited and non-accredited staff reports that they have tried peer review, but the staff are reluctant to engage in what they see as "criticism" of each other, and therefore don't thoroughly flag mistakes. This agency decided to have the senior attorney and senior accredited representative pull random files for each staff member four times a year and review them.

Agencies with Only One Immigration Staff Person

An agency with only one immigration staff person will not be able to conduct internal technical case reviews. It can be a challenge for a one-person immigration program to ensure that there is adequate review for the work. One-person programs are especially well advised to try to make contact with other practitioners for support, guidance and advice. If your program is part of a national network and there is an immigration attorney or attorneys available to you, make use of them! If you are part of a network, you can also make connections with other agencies within your network who offer immigration services.

If you are a solo immigration representative in a community with other nonprofits offering

Supervisor Review and Support

"I have an open-door policy that allows staff to be able to come to me at any time, but I also have weekly meetings set aside for each staff person. We talk about their cases, questions, whatever. It's more convenient for both of us: staff know they'll have a time set aside for any questions and it's easier for me because I don't have people knocking all day long. If I need a chunk of uninterrupted time I close my door."

– Delia Seeberg, *Immigrant Legal Services, World Relief, Chicago, IL*

Case Review of All Files by More Experienced Staff

"Before every application goes out, another staff member will peer review it to make sure everything has been done correctly. Generally we all review each other's work. We have a case review basket for cases that are ready to be filed. Our aim is that once an application goes into the basket, it should be in the mail within a week. We also use technical review of cases to identify gaps in our materials, and in our trainings. Last year, for instance, we examined every unexpected Request for Evidence (RFE). We tried to figure out if we should have anticipated the RFE, and if so, to determine why the requested evidence wasn't included in the application when it was originally sent. We were able to identify gaps in our client document checklists, as well as places where our staff needed more training."

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

immigration services, you might consider setting up regular case review meetings with the other agencies, so that you can compare notes and ask for advice about difficult cases.

Other Sources of Technical Support

Many agencies find technical legal support outside their own staff. If your agency is part of a national network such as CLINIC, LIRS (Lutheran Immigration and Refugee Service), IRC (International Rescue Committee), CWS (Church World Service), or World Relief you may have an immigration attorney or attorneys available to answer immigration legal questions.

Some agencies set up a consulting relationship with an immigration attorney outside the organization, whether formal or informal. That attorney would not typically supervise the entire agency's casework, but would be available on an as-needed basis to answer questions or review difficult cases.

Immigration listservs can be a good way to get occasional legal questions answered, and to learn by reading other participants' questions. Some listservs require membership in the parent organization that sponsors the listserv. Visit the websites of the national organizations mentioned in Chapter Seven and join their listservs.

Non-Attorney Supervision of Attorneys

It is very common in nonprofit immigration programs for non-attorneys to supervise attorney staff. Program managers or agency directors often have no legal background, and little or no knowledge of immigration law. Attorneys may believe that they are not ethically permitted to have any supervision by a non-attorney. This can lead to misunderstandings, a dangerous lack of supervision for the attorney, and even malpractice.

Peer Case Review of Randomly Chosen Files

"We do peer review. Once per month the staff review seven of each other's cases. The computer randomly picks cases to be reviewed. I created a "Case Record Review" sheet that the staff follow when doing these reviews. They check off to make sure the intake form is complete, the consent form is signed, the retainer agreement is signed, that the appropriate correspondence is in the file, that all forms are signed, etc. Once the forms are completed they are given to me. Then I review all of the cases that have been peer reviewed."

– Nancy Gavilanes, Catholic Charities of Chicago Immigration Service

There are restrictions on the supervision of an attorney by a non-attorney. Attorney ethics rules mandate that attorneys' legal decisions on cases may not be dictated by non-attorneys. A non-attorney/accredited representative program manager may not make decisions about legal matters in immigration cases.

On the other hand, a non-attorney/accredited representative must ensure that attorney staff are following case management procedures. Programs that do not do this risk providing inferior service to clients, putting clients at risk, and exposing themselves to liability. Some attorneys may not understand this distinction at first. Be very clear up front with any attorneys you hire what the scope of your supervision will be.

What should the scope of that supervision be? Without knowledge of immigration law, you cannot and should not undertake to assess the attorney's legal work. Decisions about what kinds of immigration options are open to clients; how to counsel clients about their immigration options; what kinds of evidence to submit and how to

Informal Consulting Relationship with an Attorney

"Our agency has two partially accredited reps. A third new-hire is in training. We do quarterly peer review of each other's work. We also have established a good rapport with "Lourdes Ramirez" (not her real name), an attorney at the Catholic Charities office in a neighboring diocese. This relationship is completely informal. Lourdes does it out of the goodness of her heart and because we've established a rapport over the years. She's been very generous with her advice and time. She helps us with legal questions and sometimes we refer cases directly to her. When you are a small program with no attorney on staff, it is very important to establish close connections with a smart, trustworthy experienced attorney. Network until you find a really good, experienced person and then make her or him your 'best friend'."

– Director of Immigration Services, mid-size immigration service office in small city

submit it; and determining what the law says about a client's situation are all examples of legal decisions a non-attorney may not oversee.

What, then, may a non-attorney oversee? A non-attorney program manager should ensure that strong case management systems are in place in the immigration program, and that the staff adhere to them.

Chapter Five details the many elements of a successful case management system.

Forging Connections With Local Attorneys and Accredited Representatives for Quality Control

"I volunteered for a naturalization conference with Catholic Charities. There I met local immigration lawyers, and we really hit it off. I have cultivated relationships with them: I call them, have lunch with them from time to time. I've also gone to community events where I might meet other lawyers. I've called lawyers cold turkey. I also sometimes call lawyers if their clients come to see me for advice."

– Paul Kasun, *Benedictine Mission House, Schuyler, NE*

Helping an Attorney Manage Your Immigration Program

It is important to remember that an attorney does not automatically know how to manage a legal program. Being an attorney doesn't make someone a good program manager, and law school does not teach nonprofit program management skills. Do not assume that an attorney will know how to manage a program well. To save money, nonprofits often hire attorneys who have recently graduated from law school to run their immigration programs. **The less experienced an attorney is, the more likely that she or he will need training, guidance and support in managing the immigration program.** She or he will need a supervisor to help set priorities for the program, develop and maintain case management systems, and manage the immigration staff. Programs that do not provide this supervision are likely to lose talented staff.

Even if you do not have immigration expertise yourself, you have other things to offer. Provide your immigration manager with a chance to voice concerns and frustrations. Engage with her or him to develop a "vision" for the program.

Why Some Supervision of Attorneys is Necessary

“Immigration Services of New Caldonia” (ISNC) (not its real name) hired an immigration attorney to oversee its immigration program. The Executive Director of ISNC had never hired an attorney before, and he wasn’t quite sure how much supervision he could provide; in fact, he felt like he just didn’t know enough to supervise the attorney. He met with the attorney and she told him “You can’t supervise me—I’m an attorney and because of attorney ethics rules no non-attorney may supervise my work.” He figured she must be right about this—after all, she was an attorney—and he left her to run the immigration program on her own.

Two years later, this ED left, and ISNC hired a new ED. The new ED believed it was her job to ensure that all her employees were doing their job adequately, and that the agency had to make sure the legal program was being run in a professional way that would not expose the agency to malpractice claims. She insisted that she had to supervise the attorney—not her legal work, but her management of the immigration program. The attorney was so upset about this that she quit.

After the attorney left, disturbing facts emerged. She had no electronic tickler system, and didn’t use case management software. Deadlines were looming but hard to identify except by going through each and every file from top to bottom. Files were disorganized and piled haphazardly in her office. Clients started coming in to ask about their cases, and it started to become clear that the attorney had missed important deadlines on cases, so that clients were no longer entitled to immigration benefits they should have been granted. The agency had to send clients to other agencies to represent them in motions to reopen based on ineffective assistance of counsel—the agency’s own ineffective assistance. Not all of these were successful.

After this, the ED insisted that her new attorney had to set up case management systems, and that she had to report to the ED on what those systems were and how they ran. The ED met regularly with the attorney who reported on how she and her staff were processing cases. The agency never missed another deadline.

– *Small immigration program at large refugee resettlement agency*

Supervision Challenges in an Agency with Multiple Locations

Some agencies have more than one physical location. Supervising immigration staff in remote locations presents special challenges to the manager of a “satellite” office that is a part of a large agency but geographically removed from that agency’s main office, and to the supervisor in the main office who supervises the remote office(s). The physical disconnect can leave remote office managers feeling isolated and stranded, with no one to help set priorities, manage staff and workload, and deal with problems that arise.

It is important to have strong communication between the main office and satellite offices, whether by phone conferences, in-person meetings, e-mail check-ins, or best of all, a combination of the three. Creating a forum for regular communication is essential. It keeps the remote office manager connected to the main office, and makes it easier for the remote office and the main office to handle unexpected problems that arise in the remote office.

Suggestion for Remote Office Supervisors

One former immigration attorney manager of a “satellite” office has the following suggestions for managers of satellite offices:

“Institute regular ‘check-in’ meetings with your supervisor in the central office. This will allow you to respond collaboratively to problems; it can also serve as a de-stressor (an outlet to discuss common issues among peers). Meetings could be a coffee and donut session, over lunch, or during a happy hour or dinner setting. The important thing is the support and social interaction. “

Another option is to use internet-based immigration case management software. This allows a supervisor to check on staff and their cases in remote locations without the expense of traveling to those offices. This is discussed in Chapter 5.

One Attorney's Supervision Ideal

"As an employee and manager, I am not receiving any support. Because of a lack of supervision, I feel like I am on my own, overwhelmed with a caseload of over 400 cases. I feel like I am working very hard but do not receive any appreciation or basic awareness for what I do (except from clients). When I get into a crunch or a difficult situation, I have no support network to turn to (except for my national agency). I feel like everything falls on my shoulders but there is no recognition or reward for my hard work. Because my caseload is so high, and there is no overarching leadership, I feel bogged down by the daily duties and unable to look forward or focus on the future of the program. There is simply no time or energy left to take that on. I also feel "out of the loop" and would like a supervisor who communicates his/her "vision" for the program. I want to feel included in the decisions that determine the direction of the program, because I am the one who is living and working in the program each and every day."

– *Immigration attorney at small immigration program in mid-sized city*

Staff Training and Development

Immigration law is constantly changing. Your immigration staff will need continuing immigration law training. Practitioners must be aware of changes in the law, regulations, and procedures in order to provide high quality legal services, and protect the organization from legal liability and malpractice. Make sure that you regularly budget for ongoing staff training.

Trainings can also serve as important networking sites; your staff will be able to meet and develop relationships with other practitioners. It also serves to keep your staff challenged and interested in their jobs.

Immigration Law Training Sources

There are several national organizations that offer regular immigration trainings for nonprofit practitioners. There are also state-wide coalitions and a host of local training opportunities. Following is a list of national organizations as well as several state-wide coalitions. This is by no means an exhaustive list of immigration training opportunities. There may well be other training opportunities in or near your community.

The Catholic Legal Immigration Network, CLINIC (www.cliniclegal.org) offers approximately 40 trainings throughout the year and all over the country on a wide range of immigration legal issues of interest to nonprofits, including a Survey of Immigration Law, Family-Based Immigration, Naturalization and Citizenship, Crimes and Removal Proceedings, Immigration Legal Skills, Immigration Program Management, and others.

The Immigrant Legal Resource Center, ILRC (www.ilrc.org) has developed a rigorous week-long training curriculum that covers much of the immigration law of interest to nonprofits. Different organizations offer it several times throughout the year in different locations. Check ILRC's website for this year's schedule. ILRC itself also offers shorter immigration law trainings in San Francisco and Los Angeles.

Several state immigration coalitions offer regular immigration training:

- New York Immigration Coalition
www.thenyic.org
- Massachusetts Immigrant and Refugee Advocacy Coalition
www.miracoalition.org
- Illinois Coalition for Immigrant and Refugee Rights
www.icirr.org

Webinars

Many organizations are increasingly using “webinars” to offer immigration training. “Webinars” are training sessions that take place via conference call and computer; each participant logs on to a designated site to view the presentation, and then calls in to a conference call to hear the presenter(s) speak. Or one can access webinars that are archived on an organization’s website. This last suggestion is very helpful for an agency that is starting up or has hired staff who are without an immigration law and management background. The American Immigration Lawyers Association (AILA), CLINIC, Church World Service, Lutheran Immigration and Refugee Service, and World Relief are among the organizations that currently offer immigration webinars. CLINIC offers many webinars throughout the year.

Webinars can be an excellent way to keep up on developments in immigration law and build on your knowledge base. They are much less expensive than in-person trainings. However, they are generally fairly short, and cannot match the in-depth experience of in-person trainings. They are best viewed as an excellent complement to in-person trainings. For an agency operating on a shoe-string or in a remote location, the growing number of live and archived webinars provides a similar curriculum to in-person trainings.

The central resource for a national perspective on where and when to get in-person and webinar (live and archived) immigration law and management trainings is the Immigration Advocates Network website calendar page:

<http://www.immigrationadvocates.org/calendar/>

Mentoring

Working under the supervision of an experienced practitioner can be an excellent way to learn immigration law. Some organizations set up mentoring relationships with experienced attorneys or accredited representatives outside their own organizations. This might take the form of “job shadowing” —observing the mentor’s work for a certain period of time. It also might involve the mentor closely overseeing the work of the mentee.

Training in Non-Legal Areas

It is critically important to ensure that your staff is well trained in immigration law and procedure. Their immigration work may be enhanced by training in non-legal areas such as computer skills and public speaking.

Volunteers

Volunteers can greatly expand your program’s capacity. Some volunteers may be able to do legal work, while others can perform tasks that can free up time for legal staff to concentrate on legal work. Volunteers may be interpreters, law students, non-law students, pro bono attorneys, someone who is active in a faith community, or other people who want to help immigrants.

Using volunteers is also a way to raise your agency’s profile in the community; attract new funding; and raise awareness of immigrants and immigration law issues in your community.

Training

You will need to make sure that any volunteers you use are sufficiently trained for the tasks you are asking them to perform. Initial and on-going training is a key to volunteer management, nurturing, and retention. Training programs should be well-tailored to help volunteers understand how to perform the tasks they have chosen. In addition to skill-specific trainings, the organization should also provide other trainings calculated to expand volunteer capacity, for example, leadership development and advocacy on relevant issues. In the area of legal services, volunteers must be trained and the training kept updated on the issue of confidentiality and unauthorized practice of law.

Confidentiality

Volunteers MUST understand the importance of confidentiality in your work. Some programs use a specific volunteer agreement that stresses the necessity of keeping client information confidential. See attached National Immigrant Justice Center “Sample Volunteer Agreement” and “Volunteer Confidentiality Agreement” on pages 58 and 59. However you choose to educate your volunteers about confidentiality, this agreement provides useful guidance about what to tell your volunteers about confidentiality.

Respect and Consideration for Volunteers

People choose to volunteer their free time and efforts for many reasons, but their first priorities are their own life, family, and work. An organization that uses volunteers must be sensitive to and supportive of volunteers’ time and other limitations. The organization can help to make volunteering easy by carefully planning how to use the volunteers. Breaking down tasks into small, discrete units helps volunteers fit the chosen activities into their existing schedule. It is a good idea to have a key organizer who can coordinate and oversee the details of all tasks and assignments to ensure that all necessary tasks are done. In addition, organizers should also make sure to include back-up and redundancy where possible. A task that may be completed by one person may be assigned to two people who may attempt to perform that task together or agree to take turns.

Retaining Volunteers

For volunteers to return, they must feel convinced that they are making a difference, that they are doing something that needs to be done, and that they are valued. Some suggestions on how to retain volunteers:

- Good organization: create a plan on how to use volunteers effectively and coordinate well to ensure that the plan is carried out. This helps ensure that volunteers are doing something that fits into the big picture.
- Good backup plans: the organizer(s) or coordinator(s) must be prepared and flexible. There will be occasions on which volunteers cannot come or perform the necessary tasks, or those on which more volunteers show up than expected. Organizers or coordinators must be quick on their feet and able to adjust to the unexpected.
- Good communication: the organizer(s) or coordinator(s) should make a point of informing volunteers of the agency’s progress or achievement on the project they have worked on. E-mail updates or newsletters are quick and easy ways to keep people informed and connected.
- Acknowledgment: the organization should make sure to acknowledge and thank the volunteers. Acknowledgements might take the form of volunteer celebrations, thank-you notes or gifts, or special recognitions in organization newsletters.
- Good training and supervision: this helps volunteers to feel that they are being well-supported and remain effective in their tasks. It helps the agency ensure that volunteers are doing useful, quality work.
- Communal spirit: Volunteers’ commitment is renewed when volunteers feel that they are part of a community. You may build communal spirit in many ways; for example, a celebration, organizational T-shirts, or mementos.

Interpreters

An immigration program can’t function without interpreters who can translate spoken language (translators translate written language). Interpreters at nonprofit agencies run the gamut from professional interpreters to staff members who speak languages other than English, to volunteers, to friends and family of clients. Professionally trained interpreters will generally do the best job, but are often not an option for nonprofit programs with limited budgets. We offer below ideas about where and how to find interpreters and how to make the most effective use of your interpreters.

Ideally, an interpreter will at least:

- Be fluent in the other language and in English;
- Have some basic training in interpretation;

- Understand confidentiality requirements;
- Not be related to the client.

If it all possible, **do not** use your client’s family members as interpreters. You may need to ask the client sensitive information she may not want to share with her family; you also need to be sure that you are hearing the client’s own words, and not her family member’s spin on what she says.

You may find interpreters in your general volunteer pool. Universities, religious institutions, nonprofit associations, and hospitals may also be sources of volunteer interpreters.

All interpreters, whether volunteers, staff members, or client family, should adhere to the following guidelines:

- The interpreter is the client’s voice in English, and should speak in the first person, just as the client does. If the client says in Urdu, “I was born in 1980,” the interpreter should say in English, “I was born in 1980,” not “she was born in 1980.”
- It is best to seat the interpreter slightly behind the client, so as best to approximate the feeling of a direct conversation between the legal worker and the client.
- It is generally best to interpret at the end of each full sentence. This gives the interpreter a chance to repeat exactly what was said, and best ensures that he or she does not forget anything.

You will probably need to explain this to the client and to an inexperienced interpreter.

- The interpreter should not summarize, but as far as possible interpret exactly what the client says.
- The interpreter should never insert her personal opinions or advice.

If you do find yourself having to rely on a client’s family member to interpret, give the family member some guidance on what you expect from her or him. If you have any reason to suspect you are not getting the full story from your client through the family member interpreter, or that there are things the client might be reluctant to discuss through the family member interpreter, make every effort to find an interpreter the client does not know personally.

Pro Bono Attorneys

Pro bono attorneys can greatly expand your program’s legal services capacity, but a pro bono attorney program is not for every agency. It takes work and expertise to adequately recruit, train, and supervise pro bono attorneys. Unless your pro bonos are seasoned immigration practitioners, you will not be able to run a pro bono program without experienced attorneys or fully accredited representatives on your staff to train and supervise them. Pro bono attorneys can bring other benefits to your program aside from expanding the number of cases you can handle. A strong relationship with a law firm can be a source of funding for the agency.

It can take a lot of time and work to build a strong pro bono program at your agency. One program director who has built good relationships with pro bono attorneys shares the recruiting recommendations that follow.

Recruiting Pro Bono Attorneys

“You have to get out there and be visible, and not just in the immigrant community. It’s equally important to be visible in the local legal community as a whole. Think carefully about how you can use volunteer lawyers.

Build relationships with law firms. Many law firms have pro bono programs; find out who their pro bono partners are, and go visit them. Go to firm lunches, make presentations for them.

Offer to train pro bono attorneys to do something like asylum, and to mentor them. Then be good about mentoring. We have been very available to our pro bono attorneys, and they are appreciative. It’s a win-win, but it takes a lot of work.”

– Sue Colussy, *Immigration Program, Catholic Social Services Inc., Atlanta, GA*

Law Students

Law students can expand your agency's client representation, as long as you have staff experienced enough to train and supervise them. Agencies and students have the best results when the law students are closely supervised and expectations of them are clear.

Law students appreciate the chance to get hands-on, real-world experience they don't get in law school. Some of the work you might assign to law students:

- conduct intake consultations with clients
- participate in case review
- conduct client follow-up and set appointments
- research legal issues
- act as interpreters and translate documents
- prepare clients for agency interviews and court hearings
- attend and conduct court hearings in non-complicated cases
- prepare briefs
- attend meetings.

Student internships work best where the agency provides active supervision and mentoring. One attorney writes that "I supervise the interns in all their duties by laying out the activities and case representation initially, doing frequent status checks (usually a quick conversation or an e-mail), and reviewing the intern's work before submission. I also give the intern a hefty amount of initial reading material to orient them and I share samples of the type of assignment I want them to complete."

Law students often look for part-time internships during the school year and full-time jobs over the summer. If there are any law schools near your organization, check to see if they have an Immigration Law Clinic, or offer immigration courses. If the law school has a Public Interest Law Center, you might advertise there as well for law student interns. You may also be able to advertise for law student interns through PSLawNet, the Public Interest Law Network, www.pslawnet.org.

Non-Law Student Interns

It is also possible to use non-law-student interns in your immigration program. Benefits to agency of non-law-student interns include the fact that "interns" may be more committed than "volunteers" and may devote more time to the work than volunteers; they may in some instances function more like unpaid staff members than volunteers. If you can find a local college or university that might offer some kind of course credit for an internship at your agency, this could be a draw for students. Students can also gain valuable job experience that might even lead to full-time work. While the agency need not pay interns, you will need to spend time recruiting and interviewing them, and you must be able to provide meaningful training and supervision.

Student Internships Can Be Rewarding for Both Agency and Students

"As a law student, I worked with the Lucha Project, a legal project dedicated to helping abused immigrant women and children apply for immigration relief. I interviewed clients, prepared affidavits, prepared applications, compiled application packets, translated documents, filed applications, and attended community outreach meetings with program staff. My experience was rewarding because there were people available to answer questions and give guidance (although they were extremely busy), resources available to me to complete my work (internet, statute books, treatise guides), and I felt incorporated into the "real" work that was going on. I did a lot of menial tasks, such as copying, tabbing, faxing, and couriering, but I also did very important tasks like translating affidavits and helping to obtain out of state documents for clients.

Once I became a practicing attorney myself, I hired law student interns over the summer. The good ones were really helpful. They were able to do research and reduced my workload. I often gave my students more obscure cases or research issues. One such case was an asylum claim for a deaf-mute from Ghana who claimed he would be subject to persecution and would be unable to get proper treatment at home because of his condition. Even though the facts in the case weren't as strong as they might have been, we won; I believe my student's research pushed the case over the edge for the judge."

– *Immigration Attorney, Catholic Legal Immigration Network, Inc.*

Why We Prefer “Interns” to “Volunteers”

“We prefer working with interns rather than volunteers. In our experience, interns exhibit a higher level of commitment and dependability, allowing staff to task them with duties requiring a higher level of training and responsibility.

We developed job descriptions for interns and volunteers to reflect the differences in their roles. Interns get advanced immigration training and may work directly with clients. Volunteers take client photos and make copies of applications during group processing event.

We find interns and volunteers through our relationships with local universities and their faculties. We also advertise for volunteers on a local volunteer match website. We spend a lot of time screening potential interns to ensure an appropriate match. We evaluate a person’s dependability, attention to detail, penmanship (for filling out applications by hand), aptitude for learning, and cultural sensitivity.”

– Rachele King, Minnesota Council of Churches Refugee Services, Minneapolis, MN

VISTA and Americorps Volunteers

Americorps and VISTA place full-time “volunteers” at nonprofits. They typically work for one or two year terms, and in most ways function like regular staff members. They can be invaluable sources of help in immigration programs. Note that because their positions are time-limited, it rarely makes sense to seek accreditation for an Americorps or VISTA volunteer, unless you expect to have funds to hire her or him after the volunteer period ends.

Work VISTA and Americorps volunteers do at immigration programs include client intake; assisting clients with immigration applications; presentations at job readiness workshops and ESL classes to attract clients; and coordinating processing days and outreach for services.

More information about the programs is available online at:

- <http://www.americorps.org/about/programs/state.asp>
- <http://www.americorps.org/about/programs/vista.asp>

