



June 17, 2020

James McHenry, Director  
Office of the Director  
Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 2600  
Falls Church, VA 22041

Via e-mail to: [james.mchenry@usdoj.gov](mailto:james.mchenry@usdoj.gov)

**Re: Request to amend *Matter of Bay Area Legal Services, Inc.***

Dear Director McHenry:

The Catholic Legal Immigration Network, Inc. (CLINIC) submits this letter to request that you reissue your decision in *Matter of Bay Area Legal Services, Inc.*, 27 I&N Dec. 837 (DIR 2020), to include the language suggested below. While we do not consider this an *ex parte* communication, since CLINIC is not a party to this proceeding, in an abundance of caution, we are sending this letter to the parties on the case as well. Furthermore, the minor amendments we suggest would not change the holding of the decision.

CLINIC promotes the dignity and protects the rights of immigrants in partnership with a dedicated national network of Catholic and community legal immigration programs. CLINIC supports the largest nationwide network of nonprofit immigration programs. CLINIC's affiliated immigration programs serve over 400,000 immigrants each year. CLINIC's network of affiliated programs is diverse in program size, types of immigration cases represented, and types of nonprofit organizations. An essential component of our work is training non-attorneys to become partially or fully accredited representatives and assisting them in submitting these applications to EOIR. We view our work and the work of our affiliates as critical to extending access to counsel and combatting the unauthorized practice of immigration law.

**Unclear Language in the *Matter of Bay Area Legal Services, Inc.* Decision**

We write to highlight language in the decision which we believe is unclear. Specifically, page 13 of the decision indicates that Mr. Betancourt was previously an accredited representative but does not specify whether he was fully accredited or partially accredited. Without knowing whether he ever held full accreditation, the reader may conclude that EOIR expects all applicants for full accreditation to include evidence that they have appeared before the immigration court, even if they were not authorized to do so. We therefore make the following suggestions for potential minor edits that would prevent confusion:

- In Footnote 11 where you state Mr. Betancourt was previously accredited, we ask that you clarify the years during which he was fully accredited. We believe that this simple addition will make clear to the reader that a formerly, fully accredited representative might include prior court submissions, but that an applicant who never before had full accreditation would not.
- We further suggest adding the underlined text to the sentence just before the insertion of footnote 13 located on the bottom of page 849, "Although the record contains evidence that Mr. Betancourt has

prepared motions and briefs for consideration by an immigration judge when he was previously a fully accredited representative, . . .”

We are concerned that without the clarification that Mr. Betancourt was previously fully accredited, recognized organizations applying for full accreditation on behalf of employees may mistakenly conclude that the applicant must have submitted documents or taken testimony in court *prior* to obtaining full accreditation, rather than providing evidence of substantial training on litigation matters.<sup>1</sup> We do not want this decision to inadvertently lead anyone who is not fully accredited to engage in the unauthorized practice of law or to believe that they could not obtain full accreditation without having previously taken testimony or submitting documents to EOIR.

We thank you in advance for your consideration of this request.

Sincerely,



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<sup>1</sup> Our concern is exacerbated by the instructions to the recently amended Form EOIR-31A Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative, <https://www.justice.gov/eoir/file/eoir31A/download> which state on page 4 that an applicant for full accreditation should submit documentation that “the representative possesses skills such as: . . . Presenting documentary evidence at a hearing before an immigration judge; Questioning witnesses at a hearing before an immigration judge; Pursuing appeals before the BIA.” Most applicants for full accreditation will lack authorization from EOIR to present documentary evidence or question witnesses before an immigration judge or to pursue appeals before the BIA. *Bay Area* presents the rare fact pattern where an organization is submitting a new application for a formerly fully accredited representative who previously had authority to engage in these litigation skills in the past.