



CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

Recommendations for Closing an Immigration Legal Program

This advisal addresses what to do when a program will cease to provide immigration legal services and ultimately close down.

Below are a series of issues to consider and steps to be taken when closing an immigration legal services program.

The information provided is divided up into sections starting with general considerations, client cases based on status of the case, closed files, outreach and communication to clients, program contacts and additional considerations.

As you close your program, every effort should be made to ensure that program staff fulfill their ethical obligations by creating a plan and a timeline for communication to clients, program contacts, funders and the public in the most effective manner.

General:

- The program's malpractice insurance policy should be reviewed carefully. The policy may have a provision that provides for an extended reporting period. This does not extend the term of the policy but does allow for claims to be filed after a program has been closed.
- A review should be made of the program's written policies (especially the file retention policy, the client agreement and any provisions for termination of representation) to assure that the program's written policies are followed while the program is being closed.
- An audit **must** be made of **all** client files and a determination made as to which ones are closed, open but inactive, or open and active. All actions should be clearly stated in the case notes.
- A determination must be made as to what if any action is required by the legal representative or pending with the Department of Homeland Security, or DHS, the United States Department of State, or DOS, or the Executive Office for Immigration Review, or EOIR. The status should be clearly stated in the case notes.
 - Any original documents must be returned to the client or held indefinitely until the client can claim them. Original documents and "client property" may not be destroyed.
 - If money is discovered in a case file during the audit (e.g. checks for filing fees) a determination must be made as to what the money was intended for and what action needs to be taken.

- All files must be reviewed to verify that services agreed to by the client and the program were, in fact, performed.
- In your case management database, conduct a thorough review of all upcoming deadlines and court dates and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A roster of all case files should be created listing, at a minimum, the case file's status (open-active, open-inactive, closed), the client's name, client's A#, the client's contact information, the file's physical location and a status summary.
- The file retention and archive policy need to be reviewed, updated and carried out by the program. Set a policy if one is non-existent. The policy needs to address the following: how long the file needs to be physically retained before being destroyed based on guidance from the state bar association; where the files will be stored so the safety and privacy of the files are maintained; who is to have access to the archived files and assist clients and legal representatives to have authorized access to them later; and who is responsible for destroying the files per the policy guidelines.
- Consider carefully when and how you will describe your plans to close your program to clients and the community. Think about questions that clients may ask and have a response prepared. (Will you be able to finish helping me? What happens if my case is not completed by then? Is there another program or legal representative that can help me?)
- Consider the ethical obligation to be "diligent" with client matters. A legal representative cannot neglect legal matters entrusted to them. It is critical to keep clients reasonably informed about significant developments that will impact the timing and substance of their representation. Clients should have adequate information to participate intelligently in their case.
- In writing, provide information about how the client or a third party can obtain the client file.
- If terminating representation, assist client with transferring the client case to a new program or legal representative.
- It is important that the process of closing the program does not prejudice the client to the greatest extent possible.

Open, Active Court Cases:

- All open active court case files must be thoroughly reviewed early in the process to determine what action is pending and making note of any upcoming deadlines. The status should be clearly stated in the case notes.
- In your case management database, conduct a thorough review of all upcoming deadlines and court dates and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A report of all open active court case files should be created listing, at a minimum, the client's name, the client's A#, the client's contact information, the file location and a status summary, preferably using consistent codes that can be queried for easy groupings.
- Inquire with the relevant state bar association's code of professional conduct as to any guidance on case withdrawals, referrals and closure of practice. Draw from the Executive Office for Immigration Review's Professional Conduct for Practitioners — Rules and Procedures for the same.

- Determine on a case-by-case basis which clients, if any, have paid for a legal service but which has not been delivered, thus necessitating a return of all or a portion of legal service and/or application filing fees given.
- For every open court case that the program has, the court **must** be notified, in writing (Motion to Withdraw) that the program is closing, and the program must ask the Court to allow the attorney or the Department of Justice, or DOJ, full accredited representative to withdraw. A copy of the Motion to Withdraw will be served on opposing counsel. The Court will not allow withdrawal or representation to prejudice a case so may not grant the motion until the client has secured alternative representation.
- All open court cases must be thoroughly reviewed early in the process to determine what action is pending and to make note of any upcoming deadlines. The status should be clearly stated in the case notes.
- The client **must** be notified, **in writing**, (certified, return receipt) that the program is closing and that legal representation has been withdrawn. The letter should include the status of the case with the government and any anticipated activity the client should expect. The client should also be notified that they may receive a copy of their case file with instructions on how to do so and if a cost is applied to make a copy. The client should be notified of efforts made to secure alternative legal representation. Inform the client how long the case file will be held before being destroyed and whom to contact before the expiration date. The client should be given a reasonable deadline to respond to the letter. Notification to the client should be made as early as possible in the process.
- Every effort should be made to help the client secure alternative representation. The effort should be documented in the case notes. Open cases, particularly humanitarian cases of vulnerable clients, should be the first priority for retaining new legal representation, seeking first charitable-based representation options if the client is low-income and future legal fees are required. Otherwise, seek for-profit representation, hopefully on a sliding scale basis if possible.
- It is important that the process of closing the program not prejudice the client to the greatest extent possible.

Open, Active Administrative Cases:

- All open active files (with and without a signed G-28) must be thoroughly reviewed early in the process to determine what action is pending and making note of any upcoming deadlines. The status should be clearly stated in the case notes.
- In your case management database, conduct a thorough review of all upcoming deadlines and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A roster of all open, active case files should be created listing, at a minimum, the client's name, the client's A#, the client's contact information, the file location and a status summary, preferably using consistent codes that can be queried for easy groupings.
- Open, active cases will have a shorter timeline for actions and must be a priority in the process of closing an immigration program.
- Determine on a case-by-case basis which clients, if any, have paid for a legal service, which has not been delivered, thus necessitating a return of all or a portion of legal service and/or application filing fees given.

- The client **must** be notified, **in writing (certified, return receipt)**, that the program is closing and legal representation has been withdrawn. The letter should include the status and any pending activity in the case. The client should also be notified that they may make a copy of their case file and given a reasonable deadline to respond to the letter. Inform the client how long the case file will be held before being destroyed and whom to contact before the expiration date.
- Notification to the client should be made as early as possible in the process.
- For open active cases with a signed G-28, a letter (certified, return receipt) **must** be sent to the United States Citizenship and Immigration Services, or USCIS, stating that the program is closing and stating that the signatory of the G-28 no longer represents the client.
- Every effort should be made to help the client secure alternative representation. The effort should be documented in the case notes. Open cases, particularly humanitarian cases of vulnerable clients, should be the first priority for retaining new legal representation, seeking first charitable-based representation options if the client is low-income and future legal fees are required. Otherwise, seek for-profit representation, hopefully on a sliding scale basis if possible.
- It is important that the process of closing the program not prejudice the client to the greatest extent possible.

Open but Inactive Files (with G-28):

- All open but inactive files must be reviewed to determine what action is pending and the probable timeline involved (e.g. is there a priority date coming up). The status should be clearly stated in the case notes.
- In your case management database, conduct a thorough review of all upcoming deadlines and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A roster of all open inactive active case files should be created listing, at a minimum, the client's name, the client's A#, the client's contact information, the file location and a status summary, preferably using consistent codes that can be queried for easy groupings.
- The client **must** be notified, **in writing**, (certified, return receipt) that the program is closing and that legal representation has been withdrawn. The letter should include the status of the case with the government and any anticipated activity the client should expect. The client should also be notified that they may receive a copy of their case file with instructions on how to do so and if a cost is applied to make a copy. The client should be given a reasonable deadline to respond to the letter. Notification to the client should be made as early as possible in the process. Inform the client how long the case file will be held before being destroyed and whom to contact before the expiration date.
- A letter (certified, return receipt) **must** be sent to USCIS stating that the program is closing and stating that the signatory of the G-28 no longer represents the client.
- Every effort should be made to help the client secure alternative representation, which will not prejudice the client. The effort should be documented in the case notes.
- It is important that the process of closing the program not prejudice the client to the greatest extent possible.

Open but Inactive Files (with no G-28):

- All open but inactive files must be reviewed to determine what action is pending and the probable timeline involved (e.g. is there a priority date coming up). The status should be clearly stated in the case notes.
- In your case management database, conduct a thorough review of all upcoming deadlines and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A roster of all open inactive active case files should be created listing, at a minimum, the client's name, the client's A#, the client's contact information, the file location and a status summary.
- The client must be notified, in writing, (certified, return receipt) that the program is closing. The letter should include the status and any pending activity in the case. The client should also be notified that they may make a copy of their case file and given a reasonable deadline to respond to the letter. Inform the client how long the case file will be held before being destroyed and whom to contact before the expiration date.
- It is important that the process of closing the program not prejudice the client to the greatest extent possible.

Closed Files:

- All closed files should be reviewed to see if the services agreed upon were rendered, the case was properly closed at the correct time and if any original documents or forms of payment are contained within.
- In your case management database, conduct a thorough review of all upcoming deadlines and access the stage each open case, active or inactive, is in. Query data and create reports on all outstanding client cases.
- A roster of all closed case files should be created listing, at a minimum, the client's name, the client's A#, the client's contact information, the file location and a status summary.
- A copy of a letter, sent to the client, stating that the case has been closed should have been put in the file when the case was closed. If the file is missing the letter with notification to the client, a new letter should be sent to the client stating that the case is closed.
- An effort should be made to notify clients in closed cases that the legal services program has been closed.
- Closed files should be maintained in accordance with the program's written file retention policy.
- If, under the file retention policy, a closed file is eligible for destruction, an effort should be made in the closure letter contained within, notifying the client that the file is going to be destroyed and when. Make every effort to contact the client if no such letter was sent at the time of case closure, giving the client a reasonable time to obtain a copy of the file with instructions on how to do so.

Outreach and Marketing Partners:

- A list should be made of all outreach partners and networks.
- Notification that the program is closing, and the effective date of the closure should be sent to all outreach partners and networks. Contacts may include: state bar association, state attorney general's office certifying nonprofits, Internal Revenue Service, USCIS, EOIR, DOJ's Office of Legal Access Programs, DOS, individual immigration judges, funders, private attorneys, community-based organizations, and national associations. The notification should include a request that all references to the program be removed from outreach materials, websites and presentations.

Referral Partners:

- A list should be made of all organizations and individuals who refer clients to the program and of all organizations and individuals who receive referrals from the program.
- Notification that the program is closing, and the effective date, should be sent to all referral partners.
- The program should work with its referral partners to identify alternative resources for past and present clients as well as the immigrant community as a whole.
- Together with its referral partners, the program should compile a list of organizations and individuals that will be willing to provide legal immigration advice and representation to the program's current clients.

Other Program Contacts:

- A list of all vendors, memberships and subscriptions for the program should be compiled.
- Any regular or automatic orders or renewals should be canceled.
- Any subscriptions should be canceled.
- Any outstanding balances should be paid.
- All credit cards should be canceled.
- Any memberships should be canceled.

Additional Considerations:

- At all times during the closing process, the program's duty of confidentiality remains. This is especially important when considering whether or not a file will be destroyed and how.
- If a client has paid in full for a service (an open case/file) that has not been completed, they will likely be due a pro-rated refund.
- A policy must be developed for how the agency or designated person will respond to future requests for copies of files (from current or past clients or from legal representatives of those clients). The policy should state what documents will be copied and which documents will not.
- A knowledgeable staff person should be assigned to handle all inquiries (both in the short term and long term, calls and mail) that might come from current and previous clients and government departments issuing notices and benefits. It is likely that people will call to inquire about a file long after the program has closed. Consider leaving a form letter with key information that can be given to any current or previous clients who contact the agency.
- The program and upper management should consider convening a meeting with community partners to discuss the reasons behind the closure, strategies and community approaches

after the program closes and how charitable legal immigration services might be expanded elsewhere.

- Just prior to the closing date, notify the DOJ's Office of Legal Access Programs that the program is closing as of the effective date and needs to be removed from the roster, along with any accredited staff.
- Arrange for your telephone number to have a recorded message about your closed office for 30 to 60 days after you close your office.