



NATIONAL OFFICE

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May 20, 2020

Office of the General Counsel
Attn: FOIA Service Center
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 1903
Falls Church, VA 22041
Via e-mail to: EOIR.FOIARequests@usdoj.gov

Re: Request under the Freedom of Information Act (FOIA) for Records Regarding Recognition & Accreditation Program

Dear FOIA Officer:

The Catholic Legal Immigration Network, Inc. (CLINIC) submits this letter to request information under the Freedom of Information Act (FOIA), 5 USC § 552, *et seq.* CLINIC also asks that any fees associated with this request be waived.

I. Request for Information

CLINIC requests Executive Office for Immigration Review (EOIR) records¹ regarding the Department of Justice (DOJ) Recognition and Accreditation Program, which the EOIR Office of Legal Access Programs (OLAP) administers. Previously, the Board of Immigration Appeals (BIA) administered the program. Specifically, CLINIC requests any and all records in the custody or control of EOIR, which includes but is not limited to the Office of Policy, OLAP, and the BIA:

- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of applications for new recognition of an organization**, as follows:
 - Average time (in days) from receipt of application until determination to approve or disapprove, from January 1, 2019 through the date this request is processed
 - The number of applications for new recognition **filed** from January 1, 2019 through the date this request is processed
 - The number of applications for new recognition **approved** from January 1, 2019 through the date this request is processed

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies.



- The number of applications for new recognition **disapproved** from January 1, 2019 through the date this request is processed
 - For those applications for new recognition that were disapproved, list the reason(s) for the negative determination
- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of applications for renewal of recognition of an organization**, as follows:
 - Average time (in days) from receipt of application until determination to approve or disapprove, from January 1, 2019 through the date this request is processed
 - The number of applications for renewal of recognition **filed** from January 1, 2019 through the date this request is processed
 - The number of applications for renewal of recognition **approved** from January 1, 2019 through the date this request is processed
 - The number of applications for renewal of recognition **disapproved** from January 1, 2019 through the date this request is processed
 - For those applications for renewal of recognition that were disapproved, list the reason(s) for the negative determination
- Records regarding **EOIR administrative termination of recognition**, as follows:
 - The number of recognized organizations whose recognition was terminated by EOIR (OLAP and/or BIA), from January 1, 2019 through the date this request is processed
 - The basis for each administrative termination of recognition
- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of new applications for full accreditation**, as follows:
 - Average time (in days) from receipt of application for full accreditation until determination to approve or disapprove, from January 1, 2019 through the date this request is processed
 - The number of applications for full accreditation **filed** from January 1, 2019 through the date this request is processed
 - The number of applications for full accreditation **approved** from January 1, 2019 through the date this request is processed
 - The number of applications for full accreditation **disapproved** from January 1, 2019 through the date this request is processed
 - For those applications for full accreditation that were disapproved, list the reason(s) for the negative determination
 - The number of applications disapproved for full accreditation but approved for partial accreditation, from January 1, 2019 through the date this request is processed



- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of new applications for partial accreditation**, as follows:
 - Average time (in days) from receipt of application for partial accreditation until determination to approve or disapprove, from 2010 to 2018
 - The number of applications for partial accreditation **filed** from January 1, 2019 through the date this request is processed
 - The number of applications for partial accreditation **approved** from January 1, 2019 through the date this request is processed
 - The number of applications for partial accreditation **disapproved** from January 1, 2019 through the date this request is processed
 - For those applications for partial accreditation that were disapproved, list the reason(s) for the negative determination
- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of renewal applications for full accreditation**, as follows:
 - Average time (in days) from receipt of renewal application for full accreditation until determination to renew or not renew, from January 1, 2019 through the date this request is processed
 - The number of renewal applications for full accreditation **filed** from January 1, 2019 through the date this request is processed
 - The number of renewal applications for full accreditation **approved** from January 1, 2019 through the date this request is processed
 - The number of renewal applications for full accreditation **disapproved** from January 1, 2019 through the date this request is processed
 - For those renewal applications for full accreditation that were disapproved, list the reason(s) for the negative determination
- Records regarding **EOIR (OLAP and/or Office of Policy) adjudication of renewal applications for partial accreditation**, as follows:
 - Average time (in days) from receipt of renewal application for partial accreditation until determination to renew or not renew, from 2010 to 2018
 - The number of renewal applications for partial accreditation **filed** from January 1, 2019 through the date this request is processed
 - The number of renewal applications for partial accreditation **approved** from January 1, 2019 through the date this request is processed
 - The number of renewal applications for partial accreditation **disapproved** from January 1, 2019 through the date this request is processed
 - For those renewal applications for partial accreditation that were disapproved, list the reason(s) for the negative determination



- Records regarding **EOIR (OLAP and/or Office of Policy) administrative termination of full accreditation**, as follows:
 - The number of fully accredited representatives administratively terminated by EOIR (OLAP and/or BIA), from January 1, 2019 through the date this request is processed
 - The basis for each administrative termination of full accreditation
- Records regarding **EOIR (OLAP and/or Office of Policy) administrative termination of partial accreditation**, as follows:
 - The number of partially accredited representatives administratively terminated by EOIR (OLAP and/or BIA), from January 1, 2019 through the date this request is processed
 - The basis for each administrative termination of partial accreditation
- Records regarding the number of organizations have had their recognition terminated by EOIR (OLAP and/or BIA), from January 1, 2019 through the date this request is processed
 - The basis for termination for each organization's accreditation status
- Records regarding **representation in immigration court proceedings by fully accredited representatives**, as follows:
 - Total number of respondents in removal proceedings under INA § 240 represented by a fully accredited representative, broken down by detained and non-detained respondents, from January 1, 2019 through the date this request is processed. It is anticipated that this data would be found on page 1 of Form EOIR-28, which contains a box to indicate representation by an accredited representative, as well as the EOIR e-Registry system that requires an attorney's license number or EOIR representative number as a condition for issuing an EOIR account.
 - Total number of fraud findings in applications filed by respondents in removal proceedings under INA § 240 represented by an accredited representative, from January 1, 2019 through the date this request is processed
 - Total number of cases, from January 1, 2019 through the date this request is processed, where the respondent was represented by a fully accredited representative and was granted relief by the immigration judge (IJ) or Board of Immigration Appeals (BIA), broken down by:
 - Detained and non-detained
 - Whether the IJ or the BIA granted relief



- Immigration court location
- Total number of respondents in custody and bond proceedings represented by a fully accredited representative, from January 1, 2019 through the date this request is processed, broken down by immigration court location. It is anticipated that this data would be found on page 1 of Form EOIR-28, which contains a box to indicate representation by an accredited representative, as well as the EOIR e-Registry system that requires an attorney's license number or EOIR representative number as a condition for issuing an EOIR account.
- Records regarding **allegations of misconduct² against attorneys and representatives**, as specified below. For each category, please provide the data broken down by attorney, fully accredited representative, and partially accredited representative:
 - Total number of allegations of misconduct against accredited representatives each year from January 1, 2019 through the date this request is processed, including those submitted pursuant to 8 CFR § 1292.19(a) and including but not limited to complaints submitted via Form EOIR-44, broken down by source of allegation and nature of allegation
 - If the source of the allegation is “other,” provide a list as to what this category encompasses
 - Number of misconduct allegations investigated each year from January 1, 2019 through the date this request is processed
 - Number of misconduct allegations resolved each year from January 1, 2019 through the date this request is processed
 - Number of misconduct allegations found to be without merit each year from January 1, 2019 through the date this request is processed
 - Number of misconduct allegations found to have merit each year from January 1, 2019 through the date this request is processed
 - Number of disciplinary proceedings initiated against an attorney or accredited representative including pursuant to 8 CFR § 1003.105 *et seq.*, from January 1, 2019 through the date this request is processed
 - Number of allegations resulting in disciplinary sanction of an attorney or accredited representative, from January 1, 2019 through the date this request is processed (specify disciplinary sanction imposed)

² As used in this request “allegations of misconduct” or “misconduct allegations” encompasses allegations of behavior that could constitute grounds for disciplinary sanctions under 8 CFR § 1003.102, allegations of otherwise inappropriate behavior, and allegations of behavior that would constitute grounds for non-renewal or administrative termination of accreditation.



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Please include the following non-exhaustive list of search terms in conducting a search for the items listed above: Accreditation, recognition, accredited representative, partial accreditation, full accreditation, R&A, accred rep, OLAP, Office of Policy, BIA, legal worker, non-attorney representative, partially accredited, fully accredited, first level representative, and second level representative.

Note that CLINIC does not seek any personally identifiable information about any third party including any particular respondent. If responsive records contain personally identifiable information, please redact such information and produce such redacted records in response to this request.

If EOIR has this information in electronic/computerized format, please provide it in that format, preferably in a publicly accessible format such as Microsoft Word or Adobe Acrobat.

II. Expedited Processing Request

CLINIC requests expedited processing of this request pursuant to applicable law and regulations. There is a “compelling need” for these records, as defined in the statute and regulations, because the information requested is urgently needed by an organization primarily engaged in disseminating information in order to inform the public about changes in government policy and procedure regarding immigration matters.

CLINIC is “primarily engaged in disseminating information” within the meaning of the statute and regulations. Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of CLINIC’s work and are among its primary activities.

CLINIC plans to analyze, publish, and disseminate to the public the information gathered through this request. CLINIC also plans to use the disclosures to provide its legal services network with accurate technical assistance on recognition and accreditation. The recognition and accreditation program meets an urgent and serious need for representation in immigration matters, both before EOIR and USCIS. The records and information requested are not sought for commercial use and the requestors plan to disseminate the information disclosed as a result of this request to the public at no cost.

III. Fee Waiver Request

CLINIC asks that all fees associated with this FOIA request be waived, because disclosure of the requested information will contribute significantly to public understanding of the governmental activities identified above and because the disclosure is not in CLINIC’s commercial interest. 5 USC § 552(a)(4)(A)(iii); *see also* 6 CFR § 5.11(k) (records may be furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of the requester).



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A. Disclosure of the Information Is in the Public Interest

Disclosure of the requested information will contribute significantly to public understanding of government operations and activities related to the recognition and accreditation program. CLINIC provides technical support to the members of its network on a broad range of immigration law topics, including providing technical assistance and capacity building to recognized programs and their accredited representatives. The network includes approximately 1,200 attorneys and accredited representatives and assists some 600,000 clients, parishioners, and community members with immigration matters annually. CLINIC publishes books, produces a monthly newsletter, and provides in-person training, online courses, and webinars on a variety of immigration law issues including regarding procedures in removal proceedings in an effort to ensure that its network provides competent, zealous, and ethical counsel. Information obtained through this FOIA request will contribute to CLINIC's public education materials on the immigration system, and will assist CLINIC in providing technical assistance to nonprofit legal services providers, including full and partial accredited representatives, who represent individuals in removal proceedings and in matters before USCIS.

CLINIC has the capacity and intent to disseminate widely the requested information to the public. CLINIC disseminates its materials to the public through its website, cliniclegal.org, which for the past couple of months has received approximately 110,000 unique views per month. Finally, CLINIC has regular contact with national print and news media and may share information gleaned from FOIA disclosures with interested media.

B. Disclosure of the Information Is Not in CLINIC's Commercial Interest

CLINIC is a not-for-profit organization. CLINIC seeks the requested information for the purpose of educating the public through our website, and not for the purpose of commercial gain. CLINIC will also use the information obtained to inform our organization's technical assistance and training programs, and many within CLINIC provide free consultation and resources to immigrants and their attorneys across the United States.

Thank you for your prompt attention to this request. Please reply to this request within 20 working days, as required by statute. 5 USC § 552(a)(6)(A)(i).

If USCIS claims exemptions for portions of the requested materials, please indicate the specific bases for the alleged exemptions, the number of pages of withheld records, and the dates of the records withheld, and provide the remaining non-exempt portions. 5 USC § 552(b).

If you have any questions, please do not hesitate to contact us by telephone or email.



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IMMIGRATION
NETWORK, INC.

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Sincerely,

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