

First Five San Mateo County

Immigration Learning Circle for Providers: “Immigration 101”

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Overview of Presentation

- Current Context of Immigration
- Frequently Asked Questions about Immigration
- Immigrants' Rights
- Tips for Supporting Immigrant Clients
- Questions/Discussion

Immigration - Current Context

What has changed?

Focus on Immigration Enforcement

- January 25, 2017 Executive Order: – “Enhancing Public Safety in the Interior of the United States”
 - Directs Department of Homeland Security (DHS) to hire 10,000 more Immigration and Customs Enforcement (ICE) officers (tripling the total number)
 - Drastically expands who the government considers a priority for deportation
 - Essentially, every undocumented immigrant is a priority for deportation
 - Makes it easier to deport immigrants without due process (e.g., deportation without a hearing)
 - Threatens to take away federal funding from “sanctuary jurisdictions”

Efforts to Reduce Immigration

- January 25, 2017 Executive Order: “Border Security and Immigration Enforcement Improvements”
 - Calls for building a wall along southern U.S. border
 - Calls for reducing due process protections for immigrants
 - Directs U.S. Customs and Border Patrol to hire 5,000 additional agents
 - Calls for the empowerment of state and local law enforcement agencies to perform functions of immigration officers
 - Calls for the construction of additional detention facilities near U.S.-Mexico border

Travel Bans

- Series of Executive Orders and Proclamations issued by the President banning visitors from certain countries
 - January 27, 2017 “Protecting the Nation from Foreign Terrorist Entry into the United States” AKA Muslim Ban → Struck down by federal courts
 - March 6, 2017 “Protecting the Nation from Foreign Terrorist entry into the United States” AKA Revised Travel/Muslim Ban → Struck down by federal judge (appealed by Trump Administration to the Supreme Court)
 - September 24, 2017 “Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists and Other Public Safety Threats” → Recently struck down by two federal court judges as it applies to the six majority-Muslim countries

**Take Away - Increased fear
and anxiety about
immigration enforcement**

Frequently Asked Questions

**Can immigrants get public
benefits? Are there risks?**

Immigrants and Public Benefits

- Documented immigrants are entitled to many public benefits
- In California, undocumented immigrants may qualify for a number of benefits if they can establish that they are a person residing under color of law (PRUCOL)
 - (1) USCIS knows the individual is in the U.S.; and
 - (2) USCIS does not intend to deport the individual either because of the individual's status category or individual circumstances.
- PRUCOL allows DACA recipients, applicants for U-Visas and other visa programs to apply for full-scope Medi-Cal, CalFresh, etc.

Public Charge - Definition

- An immigration term describing an individual likely to become primarily dependent on the government for subsistence
- If USCIS believes an applicant is likely to become a public charge, USCIS can deny an application for entry to the U.S. or for Lawful Permanent Resident status (Green Card)
- Does not apply to applicants for citizenship (just when applying for Green Card)
- Does not apply to U-Visa, VAWA, SIJS, asylum, refugee, and certain other immigration cases.

Public Charge and Public Benefits

- **Public Charge looks to the future** – will the individual be dependent on the government in the future?
- **USCIS can consider receipt of cash benefits** (Welfare (CalWorks), SSI, General Assistance/General Relief)
- **BUT** cash benefits received on behalf of a family member (e.g. a citizen child) should not make other family members inadmissible unless the benefit is the family's sole income
- **USCIS does NOT consider receipt of non-cash public benefits** (Medi-Cal and other health insurance programs unless the person is in a long-term institution, WIC, Food Stamps, public or subsidized housing, etc.) as evidence of public charge

Has Public Charge Changed Under the New Administration?

- Although a **draft** executive order was circulated that would expand what is evidence of public charge, it has not been signed
- **Rules about immigrants using public benefits have not changed**

Can an immigrant parent get status based on having a child with a disability?

Parents of Disabled Children

- Immigration and Naturalization Act (INA) does **NOT** provide a path to citizenship based on being the parent of a citizen child with a disability
- Immigration judges have **discretion** to grant relief to individuals in removal (i.e., deportation) proceedings if certain conditions exist
 - If an individual meets certain other requirements (including having lived in the U.S. for ten years) and proves that his/her deportation will cause “exceptional and extremely unusual hardship” on a U.S. citizen spouse, child, or parent, then the judge may grant relief (give Green Card)
- If an individual is not in deportation/removal proceedings already, pursuing immigration relief through this mechanism is **VERY RISKY – the applicant puts herself in proceedings**

Parents of Disabled Children

- If the parent is **NOT** already in deportation proceedings, do not start this process!
- If the parent is already in deportation/removal proceedings, work with a qualified deportation defense attorney to make a case for cancellation of removal

**What has happened to the
DACA Program?**

Deferred Action for Childhood Arrivals (DACA)

- Department of Homeland Security program that grants “deferred action” to certain undocumented individuals who came to the United States as children
- Deferred action – discretionary, limited immigration benefit that protects individual from immigration enforcement/deportation
- Can apply for work authorization
- Residing in the United States “under color of law”
- Time-limited (two years)
- No path from DACA to citizenship

Eligibility for DACA

- Under age 31 as of June 15, 2012
- Came to the U.S. while under the age of 16
- Continuously resided in U.S. from June 15, 2007 to the present
- Entered the U.S. without inspection or fell out of lawful visa status before June 15, 2012
- Physically present in the U.S. on June 15, 2012, and at the time of DACA application
- Are currently in school, have graduated from high school, obtained a GED, or honorably discharged from military
- Have not been convicted of a felony offense, significant misdemeanor, or more than three misdemeanors
- Do not pose a threat to national security or public safety
- Unless in proceedings, must be at least 15 to apply

End of DACA

- September 5, 2017 – Trump Administration announced end of DACA Program
- No new/initial DACA applications
- Some DACA recipients were able to submit renewal application up until October 5, 2017, but only if their DACA status expired before March 5, 2018
- DACA recipients' cards/work permits will be valid through their expiration dates

What does this mean for current DACA recipients?

- Can no longer apply to travel outside the United States
- Work permits will expire (not required to tell employers)
- CA has issued guidance that DACA recipients will be able to stay on Medi-Cal even after their DACA status expires
- At risk of deportation
- Congressional action needed to restore DACA or provide a path to citizenship for “Dreamers”

What are “sensitive locations”?

Policy on Sensitive Locations

- 2011 policy that ICE enforcement activities will generally not take place at certain “sensitive locations.”
- Sensitive locations include:
 - Schools
 - Churches, synagogues, mosques, etc.
 - Hospitals
 - Site of funeral, wedding, or other public religious ceremony
 - Marches and public demonstrations

Policy on Sensitive Locations

- This policy has exceptions, and ICE may still exercise enforcement in these locations
- Courthouses are not considered sensitive locations
- Without a warrant, ICE will need consent to enter an area that is not open to the public
- ICE may wait outside a sensitive location

**What are “sanctuary
jurisdictions”?**

Sanctuary or Safe Haven Cities and States

- No legal definition!
- Refers to jurisdictions where local law enforcement does not enforce federal immigration laws
- Example: Local law enforcement will not comply with requests from ICE to detain individuals who have violated immigration laws
- ICE can still enforce immigration laws in sanctuary cities

**Does immigration status
affect housing rights?**

Housing Law for Immigrant Families

- Since November 2016, increase in reports of landlords threatening to call ICE on tenants
- Regardless of immigration status, tenants have rights
- San Mateo County – allows “no fault” evictions
- Procedural requirements prior to eviction
- Civil litigation (including evictions) does not affect immigration status

Housing Law for Immigrant Families

- Retaliation - Illegal for landlord to retaliate against a tenant in California who has exercised a legal right, including:
 - Complaining about unsafe or illegal living conditions
 - Complaining to a government agency, such as a building or health inspector, about unsafe or illegal living conditions
 - Assembling and presenting views collectively (e.g., forming or joining a tenant union)
 - Exercising a legal right
- → Landlords cannot evict a tenant as retaliation

Housing Law for Immigrant Families

- Currently, landlords cannot ask tenants about their immigration status
- Current laws protect Californians from discrimination on the basis of immigration or citizenship, but no law specific to housing/tenants' rights
- Assembly Bill 291 – Immigrant Tenant Protection Act of 2017
 - Strengthens protections for tenants by prohibiting landlords from disclosing a tenant's immigration status to authorities
 - Makes it illegal for landlords to threaten to call ICE or otherwise infringe on the rights of undocumented tenants
 - Prohibits discrimination and harassment by landlords based on immigration status

What should immigrant families do now to prepare for a possible ICE raid?

Make a family preparedness plan

- Have all important documents and emergency numbers in one place.
 - If your child is disabled, include all of the IEPs and medical information.
- Tell the school who can pick up your child.
- Provide a caregiver's authorization affidavit to another adult who could temporarily take care of your child.
- Obtain a passport for your U.S.-born children.

Know Your Rights

- Right to remain silent.
 - *You may refuse to speak to immigration officers*
- Do not open your door.
 - *You do not have to let immigration or law enforcement into your home, unless they have a warrant signed by a judge.*
- Right to speak to a lawyer.
 - *You can ask to speak to a lawyer.*
- Note: Speak to a lawyer before signing any documents provided to you by ICE.
 - *ICE may try to get you to sign away your rights. Don't sign anything without speaking to an attorney first.*

Tips

- Carry a know-your-rights/Red card and show it if an immigration officer stops you.
 - *Don't say anything – just hand the card to the officer.*
- Always carry with you any valid immigration documentation that you have.
 - Don't carry foreign papers with you (e.g., a foreign passport) or false papers.

There are limits on what ICE can do

- ICE cannot pick you up unless they have a signed warrant or probable cause to believe that you are in the country illegally
- If you are in proceedings, seek representation by a deportation defense attorney
- Find a non-profit immigration attorney near you:
 - <https://www.immigrationlawhelp.org/>

**How can we support
immigrant families?**

Supporting Immigrant Families

- Provide “Know Your Rights” materials and Red Cards
- Provide information on Family Preparedness Plans
- Continue what you are already doing!

Consider Referring to Legal Aid or Other Legal Service Providers

- Legal Aid assists with:
 - Questions about immigrants accessing public benefits
 - Concerns about housing/evictions
 - Issues with public benefits (Medi-Cal, CalWorks, CalFresh, Social Security/SSI)
 - Certain immigration issues (U-Visas, VAWA, SIJS)
 - **Call 650-558-0915**
- For general immigration consults, refer clients to Community Legal Services of East Palo Alto – 650-326-6440

Thank you!
Questions?