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# Exploring How to Launch an Immigration Legal Ministry

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# Executive Action and immigration Reform

On November 20, 2014, President Obama announced executive action on immigration

Only Congress can pass laws – Congress has not passed an immigration bill

The President is directing federal immigration agencies to:

- Prioritize use of resources
- Defer deportation and permit certain noncitizens to remain in the U.S. for period of time
- Provide work permits to deferred action recipients

# *Texas v. United States*: 2 Buckets (right now)

6/17/15

**Original Lawsuit** *(26 states argue: "Extended DACA/DAPA Programs should not be allowed for constitutional and procedural reasons")*

- Still in the federal trial court in Texas
- In "discovery" phase
- Appeal pending now <u>does not</u> dispose of this!

**Appeal of Preliminary Injunction**: *(26 states argue: "Programs shouldn't be allowed to start until the original lawsuit can be heard")*

- Trial court granted this request
- DOJ appealed and this will be heard by 5th Cir. on 7/10/15

**Appeal of the denial of a stay to the preliminary injunction**: *("Programs should be allowed to start now while lawsuit is pending")*

- 5th Cir. denied this
- DOJ will not pursue further and has abandoned stay altogether

# Launching an Immigrant Legal Services Program

## Assessment
**4 - 8 weeks**

### Relational Considerations

- Congregational and leadership buy-in
- Access to immigrant community
- Denominational/local church requirements for implementing a new program

### Program Considerations

- Funding
- Office space
- Staffing
- Potential for full or part time program
- Equipment (copiers, computers, etc.)
- Liability insurance

## Training, Experience & Ongoing Mentoring
**80 hours minimum of training and experience**

### Training

- 40 hours of training in immigration law required
- Basic overview of immigration law is a required course

### Experience

- 40 hours of experience with immigration law required
- Observing and hands on supervised case work at a law firm or non-profit is encouraged

### Ongoing Mentoring

- Establish a relationship for programmatic and case support

## Application for Certification
**3 months to 1 year**

### Application Requirements

**Individual Accreditation**

- Resume listing training and experience
- Recommendation letters

**Church Recognition**

- Library
- Budget/funding sources
- Non-profit status
- Evidence of legal support/mentoring
- Letters of support

**Attorneys**

- An attorney does not need BIA accreditation

## Open for Service

### Before BIA Approval

- Before approval the site cannot accept cases, but can provide workshops and referrals, and assist with document collection
- Site should carefully consider intake procedures, case selection criteria, and other program protocols during waiting period

### After BIA Approval

- Once approval is received, site can begin accepting cases

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# Assessment: The practice of law

- **Courts and legislatures have said that the following activities involve the practice of law:**
  - Applying law to facts -- telling someone how the law works in their specific case;
  - Representing others in court proceedings; and
  - Holding oneself out as a lawyer.

# Who can practice immigration law?

- Attorneys
- Representatives accredited by the BIA
- Law students, graduates, etc. being **supervised** by one of the above

**What are some of the reasons we have laws against the unauthorized practice of law?**

- To protect the public against harmful incompetence and unethical behavior; and
- To protect the administration of justice from people not bound by ethical rules that control lawyer behavior.
- Some scholars argue these rules are designed to protect the legal profession

# Board of Immigration Appeals (BIA) Recognition and Accreditation

- Allows non-profits to operate immigrant legal services programs and practice law
- Agencies must receive recognition in order for non-attorneys to become accredited
    - Recognition=place
    - Accreditation=person (full vs. partial)
- Recognition never expires, but can be revoked. Accreditation must be renewed every three years.

## Church and Community Support

- Support and investment from church leadership
- Community research
  - Where are other programs? What services are offered?
- Needs assessment
  - Evaluate community demographics

## Program Considerations

- Funding
- Office space
- Staffing
- Hours of operation
- Equipment (copiers, computers, etc.)
- Liability insurance

# Training

- Basic overview of immigration law course is required
- Minimum 40 hours of classroom training in immigration law
  - Family-based
  - Inadmissibility, removability, waivers
  - Program management
  - Benefits for victims of crime, domestic violence, etc.

# Experience

- Must obtain supervised hands-on experience working with clients, filling out forms, etc.
- **Minimum** 40 hours of experience
- Can be completed under the supervision of an immigration lawyer or BIA recognized representative
- World Relief offers shadowing as a part of its legal affiliate membership

# Ongoing Mentoring

- Must establish a relationship for ongoing legal and programmatic support
- Proof of relationship required at time of application
- Non-profit organization or pro bono agreement with an immigration attorney

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# Application for Certification

## Church Recognition

- Evidence of knowledge and experience
- Office location
- Library
- Budget/funding sources
- Non-profit status
- Evidence of legal support/mentoring
- Letters of support

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# Application for Certification

## Personal Accreditation

- Resume listing training and experience
- Certificates of completion for trainings
- Recommendation letters
- Attorneys do not need to apply for BIA accreditation
- Applications usually take 3-6 months to process
- If denied, a site may apply again immediately

# Site Considerations Before Approval

- Policies and Procedures manual
  - Intake procedures
  - Case selection criteria
  - Fee collection
- No legal advice should be given until certification is received, BUT
  - Workshops
  - Referrals
  - Document collection

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# Next Steps

- Identify a non-attorney who will pursue Board of Immigration Appeals (BIA) accreditation (or an attorney to supervise)
- Participate in comprehensive immigration law training – this is often a 40 hour Basic Immigration Law course
- After classroom training, gain observation and hands-on experience. This can be completed by shadowing a World Relief office or other Immigration Alliance affiliated site

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# Nazarene Specific Process

- Contact Susan Grube at: sgrube@nazarene.org
- Completed application
- Permission and signature of District Superintendent
- Proof of 501(c)(3)
- Proof of Basic Immigration Law training and Shadowing
- Proof of staff & location

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# Resources

- BIA FAQ Sheet on Recognition and Accreditation: http://www.justice.gov/eoir/statspub/rafaqs.htm
- BIA Website: http://www.justice.gov/eoir/statspub/raroster.htm
- Step by Step Guide and other resources at http://www.cliniclegal.org/resources/toolkit-bia-recogition-accreditation
- The Immigration Alliance: http://theimmigrationalliance.org/resources/

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