

ALIEN REPRESENTATION

Victims of domestic violence, sexual assault, trafficking and other crimes

It is permissible for an individual, while engaged in legal services activities funded by LSNF, to provide legal services for or on behalf of an alien (1) who has been battered or subjected to extreme cruelty, victimized by sexual assault or trafficking, or qualifies for a "U" visa under Section 101(a)(15)(U) of the INA, or (2) whose child (without the active participation by the alien) has been battered or subjected to extreme cruelty, victimized by sexual assault or trafficking, or qualifies for a "U" visa under Section 101(a)(15)(U) of the INA, provided that the legal assistance directly relates to the prevention of, or obtaining relief from, the battery or cruelty or sexual assault. No limitations exist on the legal services available to trafficking victims and their family members so long as the services are in LSNF's priorities or constitute an emergency justifying acceptance outside priorities. Records must be maintained demonstrating that the person meets the statutory criteria (i.e., is a victim of domestic abuse, sexual assault, trafficking or qualifies for a "U" visa). An adult victim of trafficking seeking representation should submit a copy of his or her certification letter as documentation of eligibility; in the absence of such a letter, the LSC grantee should verify the victim of trafficking's certification status. If certification or a visa is denied, representation must be discontinued, consistent with Rules of Professional Responsibility. Certification is not available or necessary for victims under 18.

All Other Cases

In cases not involving domestic abuse, sexual assault, trafficking or qualifying for a "U" visa (unless the only service provided is brief advice and consultation by telephone, which requires no written attestation), a citizen seeking representation from LSNF shall attest in writing to the fact of his or her U.S. citizenship on the form attached. Verification of citizenship shall not be required unless LSNF intake staff has reason to doubt that a person is a United States citizen. Factors such as a person's accent, race, color, appearance, national origin, occupation and ability to speak English may not be considered in evaluating whether there is reason to doubt U.S. citizenship. If verification is required, LSNF shall accept the original, a certified copy, or a photocopy that appears to be complete, correct and authentic of any of the following documents: U.S. passport, birth certificate, naturalization certificate, U.S. citizenship identification card, or baptismal certificate showing place of birth within the U.S. and date of baptism within two months after birth. LSNF may also accept any other authoritative document such as a document issued by INS, by a court or by another governmental agency, that provides evidence of citizenship.

If a person is unable to produce any of the documents listed, he or she may submit a notarized statement signed by a third party, who shall not be an employee of LSNF and who can produce proof of that party's own U.S. citizenship, that the person seeking legal assistance is a U.S. citizen.

LSNF may provide legal assistance to aliens who are present in the United States and who are:

1. lawfully admitted for permanent residence;
2. married to U.S. citizens and have pending applications for adjustment of status;
3. parents of a U.S. citizen and have pending applications for adjustment of status;
4. unmarried children under the age of 21 of a U.S. citizen and have pending applications for adjustment of status; or
5. lawfully present in the U.S.
 - a. pursuant to a refugee admission;
 - b. based on a granted asylum by the Attorney General;
 - c. as a result of being granted conditional entry to the United States before April 1, 1980, because of persecution, fear of persecution, or being uprooted by catastrophic natural calamity; or
 - d. as a result of the Attorney General's withholding a deportation.

LSNF may also provide legal assistance to (1) citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States; (2) special agricultural workers whose status is adjusted to temporary resident alien; (3) "H-2" nonimmigrant agricultural and forestry labor workers for matters arising under their specific employment contracts in the areas of wages, housing, transportation and other specified employment rights; (4) Canadian-born American Indians; (5) members of the Texas Band of Kickapoo; or (6) indigent foreign nationals seeking assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction.

Unless the only service provided is brief advice and consultation by telephone, which requires no verification, to verify eligibility of aliens seeking representation, LSNF shall accept originals, copies, or photocopies (that appear to be complete, correct and authentic) of the documents identified in the attached appendix. Where an alien has documentation that does not fit into the categories listed in the eligibility form but does fit in the categories listed on the appendix, the

documentation should be specified on the form and sent with a copy of the form to the executive director. Because of changes in immigration law and forms, the list of documents on the appendix may not be exhaustive. LSNF may accept any other authoritative document issued by the INS, by a court, or by another governmental agency, that provides evidence of alien status. Where an alien has documentation that does not fit into the categories listed on the appendix, the documentation should be reviewed with the executive director (or designee) to determine eligibility. LSNF, upon request, shall furnish each person seeking legal assistance with a list of documents in the appendix.

In an emergency, LSNF may provide legal services to an applicant prior to the applicant's providing written attestation of citizenship or proof of eligibility if the conditions listed on the U.S. Citizenship Determination or the Alien Eligibility Form under "Emergencies" are met and the additional required information is completed by LSNF staff, including written documentation detailing the nature of the emergency. If to the knowledge of LSNF a client who was eligible becomes ineligible through a change in circumstances, LSNF must discontinue representation consistent with the applicable Rules of Professional Responsibility.

Records Required

LSNF will maintain records to document its compliance with this policy.

It is the goal of LSNF to provide full representation to its potential clients through either direct representation by LSNF or appropriate referral in instances where representation is prohibited under this policy. LSNF is not required to maintain records of alien status for individuals who are rejected or referred.

Attachments (citizenship determination & alien eligibility forms)