

November 24, 2021

The Honorable Patrick Leahy
Chair
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Rosa DeLauro
Chair
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jeanne Shaheen
Chair, Subcommittee on Commerce,
Justice, Science and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

The Honorable Matt Cartwright
Chair, Subcommittee on Commerce,
Justice, Science and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Leahy, Chairwoman DeLauro, Chairwoman Shaheen, and Chairman Cartwright:

On behalf of the American Bar Association (ABA), I write to urge you to support funding for legal counsel for individuals in immigration proceedings. H.R. 4505, the Fiscal Year 2022 Commerce, Justice, Science, and Related Agencies appropriations bill proposed in the House includes \$50 million for legal representation programs. We urge that the Senate bill, and any final conference report, include no less than that amount.

Ensuring due process in the immigration court system is fundamentally linked to access to counsel and legal information. The ABA has emphasized the importance of increased access to legal services in immigration proceedings because these services help noncitizens to navigate a complicated area of the law which, in turn, assists courts in making better informed and more efficient decisions. The consequences of removal can be severe, resulting in separation from family or physical harm or death for those who fled persecution in their home countries. However, individuals in removal proceedings currently have no right to government-funded counsel if they are indigent and must either find a lawyer - which is especially difficult for those in detention - or must represent themselves. Statistics show that nearly half of noncitizens in immigration proceedings lack legal counsel; that figure rises to 70% for those in immigration detention.¹

While representation is difficult to secure for individuals in removal proceedings, it is essential for ensuring just outcomes. It is exceptionally difficult to determine eligibility for waivers or defenses to removal, to comprehend complex statutes, and to navigate evolving case law without counsel. That difficulty is compounded for those with limited or no English proficiency. In fact,

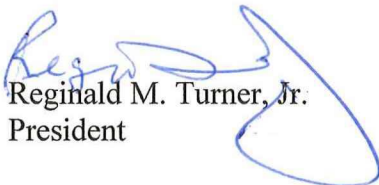
¹ Transactional Records Access Clearinghouse (TRAC), *Who is Represented in Immigration Court?*, Oct. 16, 2017, <https://trac.syr.edu/immigration/reports/485/>.

individuals who are represented in removal proceedings are between three-and-a-half and ten-and-a-half times more likely to succeed on the merits of their cases than those without counsel. Representation has the most significant impact for those who are detained. One comprehensive, national study found that those detained throughout their removal proceedings are 1,000 percent more likely to succeed with counsel than without.²

Beyond the obvious interest of impacted noncitizens, legal representation also benefits the government and the administration of justice through improved appearance rates in court, fewer requests for continuances, and shorter periods in detention at significant financial savings. It also deters frivolous claims and helps immigration courts to run more efficiently. Above all, increased representation serves the government's interest in ensuring that its decisions in these consequential cases turn on U.S. legal standards and merit and not on an individual's income.

We urge you to ensure that the final Fiscal Year 2022 Commerce, Justice, Science, and Related Agencies appropriations bill includes no less than \$50 million for legal representation programs for persons in immigration proceedings.

Sincerely,


Reginald M. Turner, Jr.
President

² Ingrid V. Eagly & Steven Shafer, *A National Study of Access to Counsel in Immigration Court*, 164 U. Pa. L. Rev. 1 (2015) (hereinafter "Eagly and Shafer 2015 Study"); see also Jennifer Stave et al., *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity*, Vera Inst. of Just. (Nov. 2017), <https://www.vera.org/downloads/publications/new-york-immigrant-family-unity-project-evaluation.pdf>.