

Legal Aid of North Carolina, Inc.

Battered Immigrant Project

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Mark Freedman
Senior Assistant General Counsel
Legal Services Corporation
333 K Street NW
Washington, DC 20007

Dear Mr. Freedman:

In response to the proposed regulations regarding restrictions on legal assistance to aliens which were published by LSC on August 21, 2013, Legal Aid of North Carolina's Battered Immigrant Project is submitting the following comments.

1. *Does the term "trafficking" as used in VAWA 2005 differ from the term "severe forms of trafficking" as used in the INA, the Victims of Trafficking Act of 2000, and the Trafficking Victims Protection Reauthorization Act of 2003?*

Yes. The term "severe form of trafficking" in the TVPRA is only applicable for T visas applicants who must prove that they have been a victim of a "severe form of trafficking" to be eligible for a T Visa. The "severe forms" definition does not apply to U Visas, which can also be based on human trafficking.

Applicants for a U Visa based on human trafficking generally rely on the definition of human trafficking codified by state statute. Most states have enacted statutes that address human trafficking; however, the definition of human trafficking varies slightly among state statutes, just as it does with domestic violence statutes. In determining whether an applicant is eligible for services, a LSC funded organization should be able to rely on the applicable state statute which would make the applicant eligible for a U visa or the federal statute which defines "severe form of trafficking," whichever is broader. Moreover, LSC funded organizations should be able to rely on any evidence that supports the applicable definition in a particular case.

2. *Does the predicate activity for eligibility under the abuse activity need to take place in the United States?*

No. One T Visa requirement is that the applicant be physically present in the U.S. on account of the trafficking. This is not the same as a requirement that the trafficking have occurred in the U.S. (and there is no such requirement). Although most trafficking cases we see do involve trafficking that occurred in the U.S., occasionally victims are trafficked in other countries, sometimes near the border, and then escape to the U.S. on account of the trafficking, making them physically present in the U.S. on account of trafficking that happened elsewhere. Such victims may still be eligible for T Visas even though the trafficking did not occur in the U.S.

LSC should allow legal services organizations to assist all individuals who are eligible for a T visa and should not restrict eligibility more narrowly than the TVPRA.

3. Does the applicant need to be physically present in the U.S. to be eligible for assistance by LSC-funded org?

No. Derivatives of self-petitioners and of U and T Visa holders often reside outside the U.S. waiting to be reunited with immediate family members in the U.S. All of these forms of relief allow for derivatives abroad to consular process and enter the U.S. based on the principal applicant's form of relief. Also, due to family emergencies and exigent circumstances, victims occasionally leave the U.S. while applications are pending with USCIS and are unable to legally return without further assistance. U visa applicants are able to obtain U visas outside of the U.S.

LSC-funded legal services providers should be able to assist victims by obtaining immigration relief for them and helping them to be reunited with their children, especially since the bulk of the legal work is done in the principal applicant's case. It would not be efficient to require that LSC funded agencies refer derivatives' cases to some other lawyer or agency when the derivatives' cases are tied to the principal's case and the majority of the work is done in the principal's case.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rona Karacaova', written in a cursive style.

Rona Karacaova