

# Homeland Security Reissues Immigrant Asylum Rules

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The Homeland Security Department has reissued asylum rules to immigration officials amid concerns that they are misinterpreting how to decide which immigrants get to see a judge for asylum claims.

The chief of the asylum division at U.S. Citizenship and Immigration Services has told asylum officers that immigrants who make a "credible fear" claim, the first step in the asylum process, must have a "significant possibility" of winning an asylum case before a judge.

In a Feb. 28 memo, the official, John Lafferty, said in order to meet that standard immigrants have to "demonstrate a substantial and realistic possibility of succeeding in court."

The memo, which updates an officer training course lesson plan, does not substantially change the standard for how the immigration agency handles such cases. The same language was used to describe the standard to win a full hearing before an immigration judge as far back as 2008, according to the USCIS website.

Lafferty wrote that there were concerns that the standard was not always being met in recent cases.

"In light of concerns that the application of the 'significant possibility' standard has lately been interpreted to require only a minimal or mere possibility of success, the revised (guidance) clearly states that a claim that has no possibility or only a minimal or mere possibility does not meet the ... standard," Lafferty wrote.

Lafferty also said the revised guidance was issued because of a significant increase in the number of "credible fear" claims cases the agency was handling.

In 2013, Lafferty wrote, USCIS handled more of these claims than from 2007 through 2011 combined. And the agency recorded a 250 percent increase in such cases from 2012 to 2013.

That year 36,026 credible fear claims were filed, according to a December 2013 Congressional Research Report on asylum.

According to USCIS statistics on the agency's case load, the overwhelming majority of credible fear claims filed from 2011 to 2013 were approved and sent to an immigration judge for a final ruling.

The National Immigrant Youth Alliance, an immigrant advocacy group that has staged several protests along the border that have included young immigrants seeking asylum, released the memo to the news media Thursday. It was first reported on by the Los Angeles Times.

Jeff Carter, a USCIS spokesman, said in a statement late Thursday that the government's rules for asylum seekers have not changed.

"The current training guidelines are to ensure proper implementation of the statutory standard that governs these screenings," Carter said.

Republican lawmakers recently have voiced concern that the asylum system was being abused by immigrants who have little or no chance of winning asylum.

In many cases, asylum seekers who are approved to have a judge hear their case are released from immigration detention and allowed to apply for a work permit while their cases are pending. In some cases, it could take years for an asylum case to reach a courtroom.

Immigrants who ask for asylum at the border are subject to what the government has called "expedited removal," meaning they can be deported without seeing a judge if their initial "credible fear" claim is denied.

While asylum requests from Mexican nationals and immigrants from Central America fleeing drug cartel and gang violence have spiked in recent years, the odds of winning asylum in the United States remain low.

David Bennion, a lawyer who works with the immigrant youth alliance, said multiple asylum cases in San Diego recently have been denied since the memo was issued internally at USCIS. He described the denials as "retaliation" for the group's advocacy activities.

Carlos Spector, an El Paso, Texas, immigration lawyer who represents dozens of asylum seekers, said the memo's instructions convert asylum officers into immigration judges.

"The message here is: You are now empowered to send people back," Spector said.

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