

CAM Program Webinar:

Updates, RFR, Re-parole

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we are one family under God

USCCB

Presenters Today

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Central American Minors (CAM) Program

- ▶ Established November 2014
- ▶ “To provide a safe, legal, and orderly alternative” for unaccompanied children
- ▶ Certain lawfully present parents in the United States can request access to the U.S. Refugee Admissions Program for their children in the Northern Triangle
- ▶ Over 10,000 applications submitted since inception

CAM Review

- ▶ Discontinuation of CAM parole option
- ▶ Anticipated sunset of CAM refugee program
- ▶ Request for guidance from federal partners
- ▶ Objectives for this webinar

Overview of Refugee Processing

- ▶ Role of Resettlement Support Center (RSC) – for CAM, this is IOM
- ▶ Interview Process
- ▶ Outcome of Interview

Requests for Review

- MECHANICS
- STANDARD OF REVIEW
- LAYOUT OF RFR
- SUBSTANCE OF RFR
- DETERMINING REASON FOR REJECTION
- EVIDENCE COLLECTION

RFR Mechanics

- ▶ **What is an RFR?** The equivalent of an appeal though not technically called that because it is a “discretionary” process. Refugees have few legal rights – including no access to counsel during their interviews.
- ▶ **What is the deadline?** There is a 90-day deadline to file though, in our experience, easily waivable.
- ▶ **What if we miss the deadline?** For waiver, list reasons for why deadline was not met (e.g. client did not have an attorney at time of notice, adequate preparation of RFR required more time to gather evidence, etc.) For CAM cases, 90 days starts the day IOM informs the refugee applicant of parole revocation via notice.
- ▶ **Can we file more than one RFR?** An applicant can only file one RFR though USCIS has discretion to look at additional filings. This has recently become more difficult.

RFR Standard of Review

- ▶ RFRs fall into one or both of two categories:
 - ▶ Cases involving an allegation of error in determination to deny eligibility
 - ▶ Reviewing officer must determine if the error was “significant” which means that **“it is more likely than not to have affected the result in a refugee case.”**
 - ▶ Cases where new, previously unavailable information allegedly provide a basis for refugee eligibility
 - ▶ If RFR is based on submission of new evidence, standard of review is whether a **preponderance of the evidence indicates the applicant qualifies for refugee status.**

Allegation of Error

- ▶ Significant error includes failure to fully examine credibility issues. If denial is based on lack of credibility, then fact finding and analysis failures constitute significant error.
- ▶ Significant error can also be adjudicator's failure to sufficiently develop and examine the facts of the case.

New Evidence

- ▶ Existing evidence that was unavailable at the time of the original application and interview, or evidence that came into existence after denial was issued.
- ▶ RFR should include a reasonable explanation as to why information was not presented at the interview. The reasonableness of explanation is determined by the reviewing officer.
- ▶ The credibility of the new evidence is to be assessed de novo, regardless of credibility finding of the original adjudication.

Layout of RFR

- ▶ Looks like a standard legal brief:
 - ▶ Introduction
 - ▶ Facts
 - ▶ Standard of Review
 - ▶ Argument – must be specific to the denial ground!
 - ▶ Conclusion
 - ▶ List of Enclosures
- ▶ See attached template for formatting

Substance of RFR

- ▶ Case law: Refugee processing is done overseas and thus no particular U.S. Court of Appeals precedent applies. That means you can and should use the most favorable case law in arguing claim.

Determining Reason for Rejection

- ▶ Notice of Ineligibility – two page form with checked boxes.
- ▶ Even though Notice of Ineligibility will say reason for rejection, it is necessary to identify the exact details that led to rejection.
 - ▶ Get copies of anything applicant has submitted.
 - ▶ Debrief how the interview went and ask questions.
- ▶ Requesting documentation through FOIA – takes long to respond so file RFR before waiting for documents to come back
 - ▶ DOS
 - ▶ DHS

Evidence Collection

- ▶ To build a successful RFR, getting specific and consistent documentation is critical
 - ▶ Affidavit from client: Important to get a first person declaration from client which tells the whole refugee claim
 - ▶ Additional affidavits from family members, experts, etc... corroborating different events
 - ▶ Any additional corroborating evidence from client such as death certificates, medical records, photos, birth certificates, threat letters, text messages, emails, etc...
 - ▶ Country conditions information which is specific as possible to your client's profile – CGRS
- ▶ Submission
 - ▶ The RFR is submitted to USCIS through the RSC (IOM)
 - ▶ RFR must be signed by applicant, though scanned signatures generally acceptable
 - ▶ If attorney is submitting RFR, attach signed G-28
 - ▶ Outcome:
 - ▶ a. Denial
 - ▶ b. Re-interview
 - ▶ c. Conditional Approval

How to Refer Cases for *Pro Se* Representation

- ▶ KIND and IRAP partnering on project to take approximately 100 RFRs
 - ▶ Please include the Notice of Ineligibility!
 - ▶ Longer form: <https://podio.com/webforms/19265339/1297124>
 - ▶ Shorter form: <https://podio.com/webforms/19409456/1307957>
 - ▶ Referral does not guarantee representation – if applicant has not heard from us within one month of deadline, please advise them to file.

CAM common fact patterns that may establish eligibility for refugee status

Gender-based violence

- ▶ girls forced into relationships
- ▶ intimate partner violence
- ▶ LGBT

Family-based violence

- ▶ violence within the family: child abuse, incest
- ▶ violence or threats directed at a family (for example by a gang member because of actions of 1 family member; entire family becomes the target)

Gang recruitment, extortion, violence (other than gender-based or family based)

- ▶ based on religion
- ▶ based on profession or professional skills
- ▶ directed at students and schools

Shortfalls during CAM refugee interviews

- ▶ Short interviews that did not allow sufficient time to develop the story
- ▶ Child felt intimidated by the Refugee Officer – i.e. accused of being a gang member
- ▶ Child did not understand questions
- ▶ Child did not understand interpreter
- ▶ Hostile Refugee Officer
- ▶ Persecutor knew about the interview and child was threatened by persecutor prior to the interview
- ▶ Child was threatened by other individual prior to the interview

Re-parole for individuals paroled into U.S.

- ▶ Individuals already in the U.S. with parole will be permitted to remain in parole status until expiration unless they depart the U.S. or violate a U.S. law.
*Subject to potential additional Trump policy changes
- ▶ Individuals in the U.S. with parole should meet with an attorney to determine eligibility for any potential long-term relief.

Re-parole, mechanics

- ▶ File form I-131, Application for a Travel Document. No application for “re parole” so must use I-131
- ▶ Part 2 check box 1.e or 1.f stating applying for advance parole from outside the U.S. and write “re-parole” across the top of the application
- ▶ File at least 90 before parole expires
- ▶ Fee to file \$575 or
- ▶ Where to file

For USPS file at:

USCIS
P.O. Box 660865
Dallas, TX 75266

For fedex, UPS, DHL file at:

USCIS
Attn: HP
2501 S. State Hwy. 121 Business
Ste. 400
Lewisville, TX 75067

Re-parole, standard

To be granted re-parole an individual must establish urgent humanitarian reasons exist for them to remain in the U.S. OR that remaining in the U.S. would be a significant public benefit, AND that they merit a favorable exercise of discretion. As much evidence as possible is needed to support these.

Standard, urgent humanitarian reasons

- ▶ USCIS looks at whether the reasons are pressing, the effects of the reasons on the person's well-being, and the degree of suffering that may result if parole is not authorized. Humanitarian requests can be based on urgently needed medical treatment not available in country of origin; need to care for seriously ill family member, extreme vulnerability of the person seeking parole and need to be cared for by family member in the U.S.
- ▶ **family reunification in and of itself is not considered sufficient, but age, disability, and dangerous/unsafe living conditions that require the individual to be cared for by the family member in the U.S. may be sufficient. (e.g. young child, no one to care for them in country of origin, any special needs? Dangerous conditions in country of origin?)
- ▶ Humanitarian parole may also be based on the need for protection from individualized harm in the country of origin, but great scrutiny of these under Trump.

Significant public benefit, standard

No definition. According to USCIS significant public benefit reasons include law enforcement and national security reasons or foreign or domestic policy considerations. For example the individual is needed to testify or to assist in a law enforcement investigation or proceeding. Or the individual is participating in a medical clinical trial and the results of the trial will benefit the U.S.

Re-parole, discretionary factors

- ▶ Positive: whether the purpose of the parole request may be accomplished within a specific, temporary period of time;
- ▶ Positive: whether the beneficiary intends to leave the United States once their parole expires or has means to obtain lawful immigration status during the parole authorization period or any re-parole period that is envisioned;
- ▶ Positive: whether the beneficiary's presence would benefit a U.S. citizen or lawful permanent resident or community in the United States;
- ▶ Negative: whether there is evidence of any national security concerns;
- ▶ Negative: whether there is evidence of any criminal history or previous immigration violations;
- ▶ Negative: whether there is evidence of any previous participation in fraud;
- ▶ Whether the beneficiary will have sufficient financial support while in the United States;
- ▶ Evidence of the beneficiary's character;
- ▶ The effect of the beneficiary's presence on a community in the United States

***balancing of positive against negative factors

Questions

Send any follow-up questions to acube@usccb.org

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<http://justiceforimmigrants.org/>

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