



Fee Waivers: Updates in Practice and Advocacy

December 13, 2019

Over the last week, there have been several policy updates that impact fee waiver practice and advocacy. ASISTA has compiled the resources below to provide additional background information, practice tips and advocacy tools for agencies working with immigrant survivors and their families.

Updates on Fee Waiver Practice

Background: Since [September 2018](#), USCIS has proposed I-912 fee waiver form changes that would:

- create additional documentation requirements for fee waivers;
- require the use of the I-912 form; and
- eliminate the means-tested benefit criteria for fee waivers.

Despite widespread opposition from stakeholders, USCIS implemented these form and policy change on December 2, 2019. However, [these changes have now been blocked](#) by a preliminary injunction issued in the case [Seattle v. DHS](#) from the Northern District of California on December 9, 2019.

Update: USCIS [has updated](#) its website to reflect the recent order; stating: "**ALERT:** The Federal District Court for the Northern District of California in Seattle v. DHS has enjoined DHS from requiring use of the 10/24/19 edition of Form I-912, Request for Fee Waiver. That edition has been removed from the USCIS forms website. **USCIS has reverted to requiring the 03/13/18 edition** of Form I-912 until further notice. We will also accept prior editions or a written request. As there may be applicants who have prepared the 10/24/19 edition of the fee waiver request, USCIS will accept and process the 10/24/19 edition of the Form I-912 and adjudicate it based on prior fee waiver policy outlined in AFM [10.9](#) and [10.10](#)."

Practice Pointers: This update means that USCIS will consider fee waivers under the [2010 Fee Waiver Guidance](#), which includes consideration of means-tested benefits as a criteria for fee waivers, and confirming applicants may submit "applicant-generated" fee waivers. If advocates are submitting fee waiver based on 150% of the federal poverty guidelines (FPG), the new requirements to submit tax transcripts are not in effect.

- **Reminder:** This does *not mean* that USCIS will resume its prior practice of having more flexible standards fee waivers submitted to the Vermont Service Center for VAWA/U/T cases. All fee waiver requests must present evidence showing that the applicant meets the one or more of the criteria presented in the 2010 guidance (e.g. receipt of means-tested benefit, 150% of FPG or financial hardship). For more information, see ASISTA Fee Waiver advisory [here](#) (updated version coming soon).

Additional Resources:

- [Supplemental U visa advisory \(February 2019\)](#)
- [ASISTA Fee Waiver Page](#)

Updates on Fee Waiver Advocacy

Background:

On November 14, 2019, USCIS published a [new proposed fee rule](#) which increases immigration fees, further limits the criteria and availability of fee waivers, and includes a transfer of millions of dollars from USCIS to ICE. On Monday, December 9, 2019, USCIS published [an additional related notice](#) which extended the comment period of the rule, reduced the comment period for [dozens of related form changes](#), and includes additional details on the transfer of funds from USCIS to ICE.

Update:

The comment period on the new fee rule and related forms all have a deadline of **December 30, 2019**. We encourage agencies that serve and/or advocate on behalf of immigrant survivors of gender-based violence to submit comments to voice their opposition to this proposed fee rule.

ASISTA has drafted a template comment on the proposed rule for agencies that serve or advocate on behalf of immigrant survivors of gender-based violence (now with updated information). As maximizing the number of unique comments is critical, **please modify the template based upon the individual concerns and experiences of your own agency.**

[Access ASISTA Template Comment HERE](#)

Additional Resources:

- **Template Comments:**
 - [CLINIC Organizational Template Comment](#)
 - [AILA Comment Template](#)
 - **Note:** Both of these templates are customizable and address a wide variety of concerns. Feel free to adjust your comment to incorporate any of these additional issues.
- **Click-to-Comment Tools:**
 - CLINIC has developed a ["Click-To-Comment" tool](#) for individuals to submit their own comments to USCIS. **Note:** the deadline to use this tool is 3pm ET December 19th.
- **Backgrounders:**

Boundless has created [detailed backgrounders](#), including useful infographics on the new fee rule.
- **Filing Fee Rule Resources:**

Our partners at CLINIC have developed important resources regarding the new fee rule [here](#).