

Legal Aid Interagency Roundtable  
2023 Report

# Access to Justice in Federal Administrative Proceedings

Nonlawyer Assistance and  
Other Strategies



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# Legal Aid Interagency Roundtable Members

U.S. Department of Justice (DOJ)

U.S. Department of Agriculture (USDA)

U.S. Department of Defense (DOD)

U.S. Department of Education (ED)

U.S. Department of Health and Human Services (HHS)

U.S. Department of Homeland Security (DHS)

U.S. Department of Housing and Urban Development (HUD)

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U.S. Department of Labor (DOL)

U.S. Department of State (State)

U.S. Department of the Treasury (Treasury)

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U.S. Department of Veterans Affairs (VA)

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Administrative Conference of the United States (ACUS)

Consumer Financial Protection Bureau (CFPB)

Corporation for National and Community Service (CNCS)

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Federal Communications Commission (FCC)

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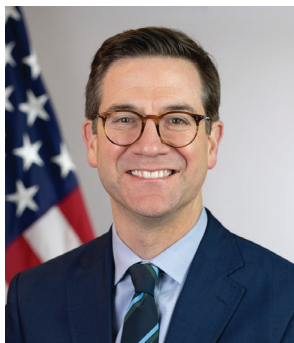
Social Security Administration (SSA)

# Letter from the Co-Chairs



Dear Mr. President,

We are pleased to report on the White House Legal Aid Interagency Roundtable’s ongoing work in pursuit of equal access to justice. Together, member agencies are examining barriers that many Americans face in accessing government programs, and they are devising innovative strategies to ensure that the people they serve can obtain fair outcomes and protect their rights. These actions strengthen the rule of law and contribute to a more inclusive democracy.



In 2022, the Department of Justice and the White House Counsel’s Office released LAIR’s Report, *Access to Justice through Simplification: A Roadmap for People-Centered Simplification of Federal Government Forms, Processes, and Language*.

The 2022 Report laid out a strategy for federal government engagement with legal service providers and communities to improve access to programs and services. A focus of that strategy was simplifying the systems and access points through which the public interacts with federal agencies. Simplification not only helps agencies address barriers and expand access to government programs and services; it also reduces the need for legal assistance and alleviates the burden on under-resourced legal aid providers.

In 2023, LAIR turned its focus to access to justice issues in federal administrative proceedings. Frequently, these important processes determine whether those most in need can access federal government benefits and services. When the proceedings are too complex or difficult to navigate, Americans may lose out on critical services because of mistakes, lack of understanding, or difficulty navigating a complex application or appeal.

But there is good news. LAIR’s review found that agencies across the government are taking new and innovative approaches to facilitate access to administrative proceedings. Sometimes, this is as simple as offering step-by-step guidance on an agency’s website in multiple languages. Other times, solutions take advantage of new technology to improve the user experience. In more complex proceedings, agencies are pioneering ways to increase access to lawyers and nonlawyer representatives with the experience and expertise to guide people through the proceedings.

In this Report, LAIR highlights the actions that member agencies are taking to improve access to their administrative proceedings. And the Report promotes exemplary practices that agencies should consider in order to expand and improve on these efforts.

The Department of Justice and the White House Counsel’s Office are devoted to the pursuit of justice for the American people. We know that, in the context of administrative proceedings, justice can sometimes mean that an American can put enough food on the table, take a child to the doctor, or work in a job free from harassment or discrimination. Strengthening access to government programs and administrative proceedings is key to ensuring all forms of justice for all people in our nation. We look forward to LAIR’s continued work toward this critical goal.

**Merrick B. Garland**

Attorney General

**Ed Siskel**

White House Counsel

# Message from the Director of the Office for Access to Justice



I am pleased to report that the Office for Access to Justice (ATJ) continues to launch initiatives and programs that advance our mission: breaking down barriers to equal justice under law. Access to justice cannot be secured through the work of lawyers and the legal sector alone. To ensure effective government systems and legal processes that meet the core basic needs of the American people, we must collaborate, partner and develop solutions with

agency partners who each hold unique expertise and tools. For this reason, ATJ is proud of our critical work to staff and direct the work of the 28 federal agencies that comprise the Legal Aid Interagency Roundtable (LAIR).

Federal agency programs and services are often the only lifeline for communities to keep food on the table, access safe and stable housing, afford a trip to the doctor, protect their rights, and more. This critical assistance can get sidelined when people do not fully understand the requirements, when they have difficulties submitting the required forms and documentation, or when administrative proceedings are just too complicated to navigate on their own.

Despite the tireless efforts of legal aid and pro bono attorneys, the persisting justice gap suggests that additional resources for legal aid, coupled with innovation and creative strategies in legal service delivery, are needed to address the needs of low- and moderate-income Americans and those in underserved communities. As this year's work shows, federal agencies are leading a number of such efforts, including the use of nonlawyer assistance, to expand on the great work of legal aid attorneys, and to make additional help possible in federal administrative proceedings and in other legal systems. These actions can promote a more inclusive democracy, where fair and efficient systems deliver just processes and outcomes, promote confidence in government, secure public safety, and meet the critical legal needs of the American people.

We are grateful for the vision of LAIR Co-Chairs Attorney General Merrick B. Garland and White House Counsel Ed Siskel, and for the leadership of LAIR Executive Director Allie Yang-Green. We also applaud our LAIR agency partners, whose creativity, collaboration and partnership drive our collective impact across government.

As we remind ourselves often, the law does not belong to lawyers. It belongs to all of us. At ATJ, we proudly and passionately continue to advance Attorney General Garland’s directive to “make real the promise of equal justice under law” through “innovation, collaboration and leadership across all levels of government and beyond.”

**Rachel Rossi**

Director, Office for Access to Justice  
U.S. Department of Justice

# Foreword:

## The Legal Aid Interagency Roundtable

The Legal Aid Interagency Roundtable (LAIR) and its member agencies are charged with examining federal programs, developing strategies, and mobilizing resources to address the barriers to access to justice with urgency. Led and staffed by the Department of Justice, Office for Access to Justice, LAIR is a collaboration of over 28 federal agencies and offices with a mission to:

- Increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status,
- Improve coordination among federal programs,
- Develop policy recommendations that improve access to justice, and
- Advance evidence-based research, data collection, and analysis of civil legal aid and indigent defense.<sup>1</sup>

The White House Domestic Policy Council and the Department of Justice first convened LAIR nearly a decade ago to improve outcomes across Federal programs by incorporating civil legal aid. LAIR's early accomplishments prompted the issuance of a Presidential Memorandum in September 2015 to elevate the interagency effort as a White House initiative, officially establishing the White House Legal Aid Interagency Roundtable. In May 2021, President Joseph Biden issued a Presidential Memorandum reconstituting LAIR with the Attorney General and the White House Counsel as its Co-Chairs.

LAIR strives to develop creative, evidence-based solutions for access to justice and their intersection with federal program effectiveness. This in turn highlights the power of access to justice interventions in delivering superior outcomes across a wide variety of federal program areas, including:

- Preventing homelessness and improving access to housing,
- Strengthening family stability,
- Providing clear paths to employment,
- Enhancing public safety and helping crime victims,
- Protecting consumers,



- Improving access to healthcare, and
- Meeting the needs of special populations, including veterans and servicemembers, members of Tribal communities, people with disabilities, people with criminal records, immigrants, and disaster survivors.

LAIR's 2016 Report detailed the many ways that, by adding an access to justice focus, agencies were able to advance their missions and enhance program impact.<sup>2</sup> In 2021, LAIR highlighted access to justice needs exacerbated by the pandemic in its Report *Access to Justice in the Age of COVID-19*.<sup>3</sup>

In 2022, LAIR focused on simplifying federal government forms, processes, and language so people do not need a lawyer to access government programs. The 2022 Report outlined a “simplification roadmap” and highlighted successes and commitments across agencies.

Some successes that came out the 2022 LAIR commitments include the following:

- The Department of Justice, Office of the Pardon Attorney launched a streamlined process to apply for pardon certificates following the [October 2022 Presidential Proclamation](#) pardoning federal and D.C. Code convictions for simple marijuana possession offenses. Additionally, the Office of the Pardon Attorney, in collaboration with the Office for Access to Justice, is simplifying the application form for Presidential pardons to reduce the burden on applicants, legal advocates, and staff.
- The Department of State (State) created an online application system to allow qualifying passport renewal applications to be submitted without the need to mail an application package, photograph, check or money order, and previous passport. State surveyed applicants who renewed online and received more than 26,000 responses to date. State is assessing the feedback to prioritize improvements as it learns about specific parts of the application that can be enhanced.
- AmeriCorps is working to replace its eGrants legacy system and improve the experience of those that apply for or manage federal national service grants. The new system will include a public-facing portal for grantees and sponsors and tools to enhance communication between staff and grantees/sponsors, including for people who use languages other than English.

- The Department of Justice, U.S. Trustee Program, in collaboration with the Office for Access to Justice, hosted a listening session with legal aid providers in August 2023 and is actively addressing accessibility concerns raised regarding virtual meetings, including difficulty accessing the internet and computers for many people in low-income and rural communities.
- Informed by input from listening sessions organized in response to their 2022 LAIR commitment, the Social Security Administration proposed a rule change to revise the definition of past relevant work for disability benefit applications. This proposed change would simplify the application by asking for 5 years of work history information instead of 15 years.
- The Department of Veterans Affairs (VA), in collaboration with the Office for Access to Justice held a listening session with legal aid providers on November 2023. During the listening session, legal aid providers had the opportunity to share their experiences with assisting Veterans who are navigating the VA administrative process, including barriers they encounter in completing forms. The VA is currently reviewing the feedback provided by legal aid providers during the listening session.
- The Federal Trade Commission expanded its capacity this year to take reports about fraud, identity theft, and other illegal business practices through its call center from individuals who speak languages other than English and Spanish.
- The Environmental Protection Agency (EPA) launched multiple initiatives to help people access its programs and resources and to advance environmental justice in 2023. In April 2023, the EPA announced the selection of 16 Environmental Justice Thriving Communities Technical Assistance Centers to provide free technical assistance, training, and capacity-building support to communities and stakeholders, including how to access government services, to improve and foster thriving communities throughout the country. Additionally, in November 2023, the EPA launched the Community, Equity & Resiliency initiative to help communities across the nation, especially low-income and disadvantaged communities, navigate EPA's historic funding opportunities under the Inflation Reduction Act investments and more. The initiative kicked off with a National Virtual Open House, a six-day event, that included a series of virtual panels and fireside chats on overcoming environmental pollution and climate change challenges through funding opportunities.

Building on LAIR's 2022 work on people-centered simplification, we focused this year on access to justice issues in federal administrative proceedings. I am honored to steward LAIR's work, and I am excited to continue to expand our reach and impact. I hope this Report is both inspiring and useful to the readers, as LAIR continues to collectively work to narrow the justice gap in our great country.

**Allie Yang-Green**

Executive Director, White House Legal Aid Interagency Roundtable  
Office for Access to Justice

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# Executive Summary

Federal administrative proceedings are often the gateway to accessing public benefits, protecting basic rights, and addressing discrimination. The outcomes of these proceedings can and do have a substantial impact on people's lives. A misunderstood form or process, a missed deadline, or the inability to compile and introduce the correct background materials could mean losing access to a critical program that provides basic needs, like housing or food security. Proper functioning of these proceedings, and ease of navigating them, is also essential to the federal government's ability to achieve its policy goals. Initiatives and programs can have their intended impact only if those intended to benefit from the programs are able to access them. This year, as reflected in this report, LAIR conducted a targeted review of the challenges people experience in federal administrative proceedings and identified overarching strategies to address these challenges.

This Report recognizes that the challenges people experience in federal administrative proceedings mirror some of the same core access to justice issues that people experience across justice systems, while they manifest differently based on certain structural characteristics of administrative proceedings. People without legal help encounter difficulty accessing relevant and accurate information on proceedings, program eligibility, and information on how to correctly complete forms and which documents to submit. People's ability to navigate administrative proceedings is also hindered when agency communications and guidance are not in plain language, a challenge that is further exacerbated for people who have limited proficiency in English or a disability.

These challenges can compound due to the impact of trauma related to poverty, mental exhaustion, and stigma associated with securing rights or benefits through administrative proceedings. Lastly, while the increased reliance on digital technology, such as online forms and portals for information submissions and virtual hearings, can increase access for many, it also creates additional barriers for people who cannot utilize such technology due to a lack of connectivity or digital skills.

To help address these challenges, LAIR identifies two overarching strategies:

- 1) Continue to develop and implement people-centered **simplification** strategies in administrative proceedings, and
- 2) Increase **representation and assistance** by lawyers and nonlawyers for people in administrative proceedings.

The first prong builds on LAIR's 2022 work on people-centered simplification of government forms, processes, and language as the core strategy to increase people's access to government programs, reducing the need for legal help. These strategies, such as simplifying government forms, using plain language, and providing self-help information, are also central to addressing the challenges that people experience in federal administrative proceedings.

The second prong represents this Report's spotlight on the importance of legal representation and assistance through lawyers, nonlawyers, or agency ombuds offices. In many instances, process simplification may not fully eliminate the need for assistance for people to effectively access government programs and obtain just outcomes.

The Report notes that, while lawyers continue to be the primary source of legal assistance, federal agencies generally permit, and sometimes fund, nonlawyers to help meet the need for assistance in administrative proceedings. The Report provides examples of LAIR agency activities supporting nonlawyer assistance and offers ways that agencies can make assistance available to more people, such as by addressing any barriers to accreditation, providing clear guidance on the allowability of nonlawyers, conducting targeted outreach, providing training resources, and funding nonlawyer programs alongside legal service programs.

In addition to assistance from lawyers and nonlawyers, the Report identifies ombuds offices that provide direct assistance to the public as another promising avenue for increasing access to justice in administrative proceedings. It recommends that agencies raise the profiles and capacity of these offices for the public to utilize their services.

Finally, the Report shares LAIR agencies' work supporting global efforts to advance access to justice in administrative programs and underscores the need to build an evidence base to better understand the impact of these access to justice interventions and help make federal administrative programs more effective.

# What is an Administrative Proceeding?

An administrative proceeding is a legal process used by agencies at all levels of government to determine entitlement to government programs or benefits, discern and remediate violations of certain rights, assess the permissibility of certain conduct, or resolve a dispute.<sup>4</sup> Unlike judicial proceedings which ordinarily take place before a third-party court or judge, administrative proceedings take place before the agency charged with providing the relevant government services, protecting rights, or regulating party activities.<sup>5</sup>

Each year, millions of people navigate administrative proceedings across various government agencies to resolve issues that impact every aspect of life, including needs for those with disabilities, healthcare, housing, employment, education, licensing, protection from discrimination, and ensuring human rights.<sup>6</sup> In Fiscal Year 2023 alone, the Social Security Administration estimated receiving approximately 2.2 million applications for disability benefits and completing approximately 360,000 hearings.<sup>7</sup> And each year, the Department of Education processes over 17 million applications for federal student aid,<sup>8</sup> and millions of cases come before the U.S. Citizenship and Immigration Services and immigration courts.<sup>9</sup>

Given the vast scope of administrative proceedings, this Report focuses on those federal programs that are commonly accessed by individuals and that are critical to their basic needs and rights, and it examines the access to justice challenges that people experience in those proceedings.<sup>10</sup> These proceedings involve:

- Eligibility assessments to access benefits, services, and educational and business opportunities.
- Complaint proceedings to seek remedies for legal violations of rights.
- Challenge, waiver, or exception proceedings to prevent negative legal consequences, like penalties and overpayments.
- Asylum or other immigration applications to seek relief from removal, or to remain and/or work in the United States.



These administrative proceedings vary greatly in their complexity and accessibility. Recognizing the breadth and variation across federal administrative proceedings, even within a single agency program, the chart below provides illustrative examples of common initial actions and potential appeal options generally available through administrative forums. As the examples convey, some proceedings involve formal or informal hearings and investigations with interviews, and they utilize many of the same processes used in traditional courtrooms. Other proceedings, by contrast, take place primarily through written correspondence. Generally, people have the right to seek a review of the agency decisions by courts after completing the agency appeal process. These numerous and varying administrative proceedings are tailored to further the agency program objectives and are structured under governing statutes and regulations.

## Federal Administrative Proceedings Examples with Common Initial Actions and Potential Appeal Options

Agency	Benefits/Services Sought	Common Initial Actions
<b>Social Security Administration</b>	Accessing Social Security benefits	File an application for a benefits program such as Supplemental Security Income benefits.
Agency's initial determination on the application → Reconsideration → Hearing before an administrative law judge → Appeals Council <sup>11</sup>		
<b>Department of Veterans Affairs</b>	Accessing Veterans' benefits	File an application for a benefits program such as disability benefits.
Agency decision on the application → Administrative review through filing a supplemental claim, request a Higher-Level Review or a review by the Board of Veterans' Appeals <sup>12</sup>		
<b>Department of Labor</b>	Seeking remedies for workplace safety violations	File a complaint for workplace violation such as an unsafe work environment.
Agency investigation and inspection → Findings and a closing conference → Citation of violation(s) if violation(s) found → Contest of citation → Review of citation by independent Occupational Safety and Health Review Commission → Decision appeal <sup>13</sup>		
<b>Department of Housing and Urban Development</b>	Seeking remedies for housing discrimination	File a complaint alleging a violation of rights under the Fair Housing Act or other civil rights laws.
Agency investigation → Letter of findings → Informal resolution or agency enforcement action <sup>14</sup>		
<b>Department of Treasury, Internal Revenue Service</b>	Preventing negative tax consequences	Receive an audit notice of a tax return.
Respond to the audit request and send requested documents → Case closure without change or proposed changes to tax liabilities → Appeal of proposed changes <sup>15</sup>		
<b>Department of Homeland Security</b>	Seeking immigration benefit	File an application or petition for a benefit such as a U visa as a victim of a qualifying crime.
Agency decision on the petition or request for additional evidence → Appeal to Administrative Appeals Office or Board of Immigration Appeals <sup>16</sup>		
<b>Department of Justice</b>	Seeking protection or relief from immigration removal	Receive a Notice to Appear or other charging document from DHS for an immigration court hearing before DOJ.
DHS encounter and filing of charging document → Master calendar hearing(s) → Merits hearing → Appeal to Board of Immigration Appeals <sup>17</sup>		

# Challenges to Accessing Justice in Administrative Proceedings

In 2022, LAIR discussed the range of barriers experienced by people who seek to access federal government programs.<sup>18</sup> Those challenges included complex forms and processes, lack of computer literacy or access to technology required to complete forms, language access barriers, complex or technical language, unnecessary requirements, and more. Similar challenges exist when people seek to navigate federal administrative proceedings, often to a larger and more aggravated degree.

As discussed in the section “Building an Evidence Base,” our current understanding of people’s experiences and challenges navigating federal administrative proceedings is limited by the lack of rigorous data collection and research looking across federal programs from an access to justice lens. It is notable that the challenges described below represent some of the same core access to justice issues that people experience across justice systems, although they manifest differently based on certain structural characteristics of administrative proceedings. This Report hopes to inspire greater investment by agencies and access to justice researchers toward building a stronger evidence base to increase our understanding of the impact of, and ability to access, these proceedings and to inform effective policy solutions.

To inform this review, LAIR agencies collected available agency information or data and engaged in discussions, conducted a survey of relevant research, and consulted with experts and academics. LAIR’s review also benefited from a listening session in June 2023 with 15 legal aid providers and other practitioners from 10 different states who shared their clients’ experiences and the systemic issues they have observed in administrative proceedings.

This review made clear that federal administrative programs deliver an extraordinary array of benefits and services and enforce numerous important rights for diverse communities across this country every day. They provide cash assistance to those unable to work due to a disability, extend food assistance to those experiencing poverty, resolve student debt issues, enforce one’s right against discrimination at school, and afford immigration relief.<sup>19</sup> Yet, it also revealed that, too often, people experience challenges to accessing their underlying administrative proceedings equitably and obtaining just outcomes.

For some, the challenges begin with **access to information**: figuring out what government programs or services they are eligible for, or determining which processes apply to them. Studies have shown that many people who qualify for benefits do not apply simply because they are unaware of their eligibility, and informing people of their eligibility increases their participation rates.<sup>20</sup> Even when someone finds an appropriate program or service, another challenge presents itself in correctly applying for that program or service, given all of the information and documentation required. Over four in 10 adults reported program enrollment difficulties, including determining eligibility and providing required documentation, when attempting to access certain public benefits.<sup>21</sup> For people without legal assistance, finding accurate and relevant information can be difficult, and without proper guidance, people may inadvertently rely on inaccurate information about what to do in administrative proceedings.<sup>22</sup>

Even when people turn to official sources, such as government websites, some find it difficult to sort through the voluminous text to find information helpful to their administrative proceedings.<sup>23</sup> Agencies usually provide forms, instructions, and guidance, but these resources vary in quality. Even with those resources, people still may have difficulty determining which process or guide to follow or which form to use.<sup>24</sup>

Also, people without legal assistance often encounter difficulties understanding agency communications and information about administrative proceedings needed to effectively guide them through the process. Administrative proceedings often involve technical rules and terminology specific to the agency's specialized programs that may **not be presented in plain language**. The challenge of understanding the technical content can be compounded by the frequent use of legalese not commonly understood by the public.<sup>25</sup> For example, an individual may receive a notice of an adverse agency decision on their initial application that includes an explanation of their appeal rights. While the notice may fully explain how to appeal the agency decision, legal aid lawyers frequently encounter people who miss the appeal deadline or file the appeal incorrectly because they did not understand the agency's explanation.<sup>26</sup> Legal aid providers also see many people who default or fail to act because they did not understand what to do after receiving a notice or request that requires individuals' timely and proper response to preserve their rights or claims.<sup>27</sup>

*When filing a charge for workers' rights violation, what you put on the initial form determines what the agency is going to investigate, setting the scope of the claim. An individual may not think to raise issues if not asked, for reasons including trauma. It is hard to change the strength and scope of a claim after the initial filing. And the challenges are even more daunting for people who communicate best in a language other than English.*

– KEVIN DE LIBAN, LEGAL AID OF ARKANSAS

For many who interact with administrative proceedings to receive government assistance, this problem of language complexity and clarity can be compounded by **trauma from poverty, a disaster, homelessness, or victimization**.<sup>28</sup> For example, research suggests that the constant struggle of surviving poverty exhausts people to the point that it prevents them from pursuing resources that would help them leave poverty.<sup>29</sup> Indeed, the act of trying to access public benefits itself can contribute to or exacerbate trauma, as illustrated by the shame and stigma that some attempting to use government assistance have reported experiencing.<sup>30</sup> These challenges exist for all communities, but they disproportionately impact historically marginalized communities, including low-income people, people of color and Black communities, people who live in Tribal communities and in rural areas, people with disabilities, and those who have limited English proficiency.<sup>31</sup> Marginalized groups have been found to encounter greater difficulties in applying for government benefits, and administrative burdens have been shown to compound inequalities in access to government programs.<sup>32</sup>

For people with limited proficiency in English, it can be difficult to navigate many agency websites, forms, and notices that are **not available in their primary language**. Additional barriers arise when navigating administrative proceedings.<sup>33</sup> Rules and procedures found in regulations or laws are less likely to be translated into multiple languages. Even when agencies translate website information, there can be a disconnect between the information a government agency provides on the English version of its website and that provided on the translated version, which may be inaccurate, less user friendly and not always up-to-date with the most recent information.

*My clients who are not proficient in English have a hard time accessing an interpreter during administrative hearings, and they often are unaware of the right to language assistance.*

*Applying for benefits is time consuming and inaccessible for many clients due to language barriers. Even after receiving benefits, clients often find that the offices awarding the benefit don't provide language access.*

~ ANISA RAHIM, LEGAL SERVICES OF NEW JERSEY

Furthermore, access to interpreters in hearings and interviews could be limited or unavailable in practice, despite agency policies to provide interpretation services at no cost.<sup>34</sup> Additionally, some administrative proceedings may require an applicant who files information in another language to provide their own translation into English, at their own cost, creating additional financial barriers. Also, while the expanded use of virtual and telephonic proceedings has increased access for many, virtual proceedings may sometimes inadvertently introduce new challenges for those who are not proficient in English and/or are Deaf or hard of hearing, potentially making it more difficult for the hearing officer to determine the language access need.

Nearly one in four American adults have some type of **disability**,<sup>35</sup> creating additional challenges in administrative proceedings. These challenges are similar to those faced in court proceedings: from technology platforms that are not accessible to blind users, to hearing rooms with no wheelchair accessible entrances, to a lack of adequate sign language interpretation for Deaf or hard of hearing individuals.

*For people with cognitive or intellectual disabilities, it is difficult to understand the programs, eligibility requirements, notices, etc., unless information is presented in clear and plain language. At many government online portals, it is difficult to request an accommodation, figure out how to talk to someone in person, and file complaints.*

~ DAVID HUTT, NATIONAL DISABILITY RIGHTS NETWORK

As agencies increasingly leverage digital technology to improve the efficiency and accessibility of their proceedings and migrate their services to the online space, people who **cannot access or utilize digital technology** face additional barriers. Despite the ubiquity of online activities for work, healthcare, education and entertainment, in 2022, about one in five U.S. households are not connected to the Internet at home.<sup>36</sup> Further, as of 2018, it was estimated that about 16 percent of American adults lacked digital literacy such that they did not have sufficient comfort or competence with technology to use a computer.<sup>37</sup> The percentage is higher for older adults, remote Tribal communities, and those who are Black, Hispanic, or foreign-born.<sup>38</sup> In rural or remote areas, broadband access is particularly challenging. And in areas that experience disasters, failure, disruption, or damage to digital infrastructure can be a considerable barrier. For these individuals who cannot easily or reliably access digital platforms, agency websites with programmatic and procedural information and online forms or portals for submitting information for administrative proceedings are often out of reach.

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*LSC appreciates LAIR's work to shine a light on the need to increase access to justice in administrative proceedings, which often takes a backseat to access to judicial proceedings in discussions around equal justice.*

– RONALD FLAGG, PRESIDENT, LEGAL SERVICES CORPORATION

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## Examples of Challenges Identified in Agency Equity Action Plans

These excerpts from federal agencies' 2022 [Equity Action Plans](#) illustrate the barriers to administrative programs that the agencies have identified and are actively working to address in order to promote equitable delivery of government benefits and opportunities to all eligible individuals.<sup>39</sup>

Agency	Challenges to Achieving Equitable Outcomes
<b>Equal Employment Opportunity Commission</b>	“Much of the EEOC’s website and the majority of EEOC’s educational materials currently are only accessible to those with a high degree of English literacy and the capability to access online resources.”
<b>Department of Justice</b>	“[L]anguage barriers often prevent many communities from understanding their rights, reporting crimes, or otherwise having full and equal access to the Department’s services and resources.”
<b>Department of Labor</b>	“Cumbersome application and ongoing certification processes impose barriers on underserved communities, including individuals with limited internet access, limited English proficiency, disabilities, and low trust in government.”
<b>Department of Agriculture</b>	<p>“Applying for and accessing USDA programs can be complicated or intimidating especially for beginning farmers and ranchers or those unfamiliar with USDA programs and the [agency].”</p> <p>“Limited and/or negative shopping experiences may result in WIC [Special Supplemental Nutrition Program for Women, Infants, and Children] participants transacting less of their WIC benefits for supplemental foods.”</p>
<b>Department of Education</b>	“Past surveys ... have found that 10 percent of students did not fill out a FAFSA [Free Application for Federal Student Aid] because they found the forms too complicated and that a quarter of Black students and one-third of Hispanic or Latino students who did not file a FAFSA did not do so because they didn’t have the information needed to finish it.”
<b>Social Security Administration</b>	“While claimants can choose to appoint an attorney or non-attorney representative at any point in the disability application process, many do not. For example, some claimants may be reluctant to pay a portion of their awarded back benefits to a representative, they may not understand how a representative could assist them in the application process, or they may not have access to free or low-cost legal services, to name a few.”
<b>Department of Veterans Affairs</b>	“Veterans from underserved populations generally show lower trust in VA than other populations.”



# Addressing the Challenges to Accessing Administrative Proceedings

In its 2022 Report, LAIR developed a people-centered roadmap for simplifying government processes, thereby improving access to government programs and reducing the need for legal assistance. That Roadmap included regular engagement with communities and legal aid providers to inform simplification efforts. The importance of people-centered simplification carries through this year's focus on federal administrative proceedings, and continuing simplification efforts is identified as the first overarching strategy to address the challenges that people experience in federal administrative proceedings.

Adding onto those simplification strategies, this year, LAIR spotlights the importance of legal representation and assistance through lawyers, nonlawyers, or ombuds offices to expand access and overcome barriers. In many instances, additional assistance is required for people to equitably access government programs and obtain just outcomes. Accordingly, LAIR identifies two overarching strategies to reduce, and ultimately eliminate, the challenges to accessing federal administrative proceedings:

- 1) Continue to develop and implement people-centered **simplification** strategies in administrative proceedings; and
- 2) Increase **representation and assistance** by lawyers and nonlawyers for people in administrative proceedings.

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*Low- and middle-income people and members of historically underserved communities, including people with disabilities, rely more than most on administrative programs to access justice. Congress established ACUS to improve the procedures that agencies use to carry out these essential programs. We are honored to work with our LAIR partners to ensure that the people most affected by these programs can navigate them successfully and achieve justice through them.*

– ANDREW FOIS, CHAIR, ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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## Continue to develop and implement simplification strategies in administrative proceedings

LAIR's 2022 Report focused on people-centered simplification of government forms, processes, and language as the core strategy to increase access to government programs. The Report identified several specific strategies that agencies can pursue to expand such access.<sup>40</sup> These simplification strategies are also central to addressing the challenges that people experience in federal administrative proceedings. Under the three-step Roadmap in the 2022 Report, agencies must develop the strategies through meaningful engagement with the people served by the programs including legal aid providers; implement them in a multifaceted way responsive to the program-specific needs; and regularly evaluate the impact of simplification on improving access to refine their efforts.<sup>41</sup>

The strategies identified in the 2022 Report that also support increasing access to justice in federal administrative proceedings include the following:

- Simplify government forms,
- Eliminate unnecessary requirements,
- Use plain language,
- Offer information in other languages,
- Where legally available, make the default option favorable to beneficiaries, and
- Provide self-help information that is easy to access.

As applied to federal administrative proceedings, agencies should ensure that they provide **accurate and easy-to-understand information** about their proceedings on their websites or other program materials. This requires that they use **plain language and streamline content**, focusing on the key information for first steps, such as program eligibility, people's rights, and the main steps that people need to take during the proceeding. Clear and accurate information from agencies is also essential for appeals and subsequent stages of administrative proceedings, as the proceedings are likely to increase in complexity.

To ensure equitable access for people with limited English proficiency and those who are Deaf or hard of hearing, the agencies should also identify the **language access** needs of the people who navigate their proceedings, such as translation of written materials (including outreach materials, forms with instructions, and any digital content) – after ensuring they are in plain language – and interpretation or other auxiliary aids needed in hearings, and they should develop and implement policies and practices that meaningfully address the needs.

**Digital technology** can be a great tool for expanding access, allowing efficient submission of applications and supporting documents and enabling people to check their case status. Also, as noted in LAIR’s 2021 Report, agencies have greatly expanded the availability of **virtual hearings**, particularly in response to office closures during the COVID-19 pandemic.<sup>42</sup> Virtual hearings create helpful flexibility for participants, eliminating the need to travel long distances and miss many hours of work.<sup>43</sup> Agencies should continue to expand the appropriate use of digital technology to lower the barriers for people to complete applications, file complaints, and engage in administrative proceedings. At the same time, given the persistent digital divide in our country, any agency efforts for simplification that rely on digital technology should incorporate **alternate access measures**, such as paper-based submission options, agency communications, and hearing options through accessible phone numbers and field offices.

Lastly, agencies should **continually assess** their programs and proceedings to identify where simplification can enhance people’s ability to meaningfully access and obtain just outcomes and take those steps towards simplification, incorporating feedback from the communities they serve and learning from other agencies’ experiences.

## WHAT AGENCIES ARE DOING

- **Equal Employment Opportunity Commission (EEOC).** In 2022, EEOC released a [Guide to Writing Appeal Briefs for Unrepresented Complainants](#) to assist applicants who file employment discrimination complaints in navigating the administrative appeals process.<sup>44</sup> EEOC developed this resource after data showed that many unrepresented applicants do not submit appeal briefs, potentially impacting their case outcomes negatively.

This guide helps make the appeal process more accessible for unrepresented parties by providing an explanation of how to support or oppose an appeal, what content should be included in an appeal brief, sample briefs that can be downloaded and used as templates, and a glossary for technical and legal terms.

- **Department of Homeland Security (DHS).** Delivering on its burden reduction commitment referenced in LAIR’s 2022 report, as of June 1, 2023, DHS has reduced over 21 million burden hours on the public by simplifying online paperwork processes, including using automatic renewals and short forms, enabling online form submission, and pre-populating forms and reusing data where applicable. For example, the Federal Emergency Management Agency redesigned the registration process for disaster survivors to apply for aid to eliminate unnecessary questions and reduce complexity, which in turn should significantly reduce the burden on survivors.
- **Department of Justice (DOJ).** Under Attorney General Garland’s 2022 Memorandum on *Strengthening the Federal Government’s Commitment to Language Access*, DOJ’s Office for Access to Justice led Department-wide efforts to modernize DOJ’s language access policies and update its [DOJ Language Access Plan](#), published in August 2023.<sup>45</sup> The updated plan applies to all DOJ activities, including DOJ administrative proceedings. The plan highlights include:
  - Incorporating equity principles and people-first language,<sup>46</sup>
  - Improving processes to identify a person’s language needs and expanding outreach and engagement,
  - Expanding language access policies to recognize sign language as a language and to incorporate the Deaf or hard of hearing community, and
  - Expanding policies for effective communication and increased access to digital content for individuals with limited English proficiency and those who are Deaf or hard of hearing.

- **Consumer Financial Protection Bureau (CFPB).** After conducting focus groups in multiple languages and usability testing of translated resources, in 2023 CFPB launched newly redesigned website landing pages in Arabic, Chinese, Haitian Creole, Korean, Russian, Tagalog, and Vietnamese. These pages make it easier to navigate CFPB tools and resources. CFPB also accepts complaints about financial products or services in 180 different languages.
- **Department of Agriculture (USDA) and Social Security Administration (SSA).** In November 2022, USDA and SSA strengthened their partnership to help connect people to Supplemental Security Income (SSI) and Supplemental Nutrition Assistance Program (SNAP) benefits through an updated agreement, improving upon joint applications and increasing their processing efficiency and enrollment. Under federal law, USDA reimburses SSA for time and resources spent conducting SNAP screenings and forwarding SNAP applications to state agencies.

The initiative includes pilot projects expanding the use of electronic SNAP applications and a signature process for applications completed by phone, which would make it easier for SSI applicants and recipients who live in a household in which everyone is applying for or receiving SSI to complete their SNAP applications. USDA and SSA have been meeting with several states that have expressed interest in the pilot projects. USDA will review the information from the pilot projects to better understand the impact of these flexibilities.

- **Department of Transportation (DOT).** DOT's Federal Transit Administration (FTA) deployed a new [civil rights online form](#) to make it easier for the public to file discrimination complaints against FTA funding recipients.<sup>47</sup> This web-based form replaced a long-time PDF version with minimal functionality, and it allows for document uploading, page branching to tailored questions based on allegation type, and real-time submission to FTA. Accommodations are provided for complaint filers who need alternate formats or lack internet access and need to mail in the form.

- **Federal Communications Commission (FCC) & U.S. Digital Service (USDS).** To expand broadband resources, FCC administers the Affordable Connectivity Program (ACP) and has provided grants to outreach partners to help eligible households. The ACP provides discounts on broadband service and connected devices to eligible low-income households, including an enhanced benefit to those households on qualifying Tribal lands. Outreach grantees conduct a variety of activities, such as in-person enrollment events, application assistance, and educational activities. In addition, FCC provides online resources, in multiple languages, including a hotline (877-384-2575) to address consumer eligibility and application questions.

To better understand the enrollment barriers applicants and advocates face when applying for assistance, FCC partnered with the U.S. Digital Service (USDS). The agencies consulted with digital navigators, digital equity advocates, and internet service providers to reduce the time it takes for consumers to enroll by providing clear instructions, decreasing the number of steps required to enroll, and simplifying the language in public-facing materials, while continuing to protect the program's integrity.



## SPOTLIGHT

In September 2023, **Social Security Administration (SSA)** published a proposed rule to reduce the period that SSA considers **from 15 years to 5 years** when determining whether an individual's past work is relevant for purposes of making disability determinations. The proposed rule, if adopted, would also simplify the Work History Report form (Form SSA-3369-BK) for the disability application and reduce the administrative burden on applicants and on SSA.

To inform the proposed rule,

- SSA held a listening session in May 2023 with legal aid and community advocacy organizations and other claimant representatives and solicited their feedback. Legal aid advocates shared that their clients have difficulty remembering and accurately reporting old information and that they become overwhelmed by the forms.
- SSA conducted a customer experience survey that concluded in June 2023 and captured feedback from approximately 15,000 recent disability applicants. The survey included questions about completing SSA's Work History Report and questions about work history reporting in general. Respondents reported difficulty remembering details about 15 years' worth of work, not having access to the records any longer, and that reporting 15 years' worth of information took a long time to complete.
- SSA relied on research indicating that skills not used over extended periods may be less vocationally advantageous.

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*SSA's programs reach nearly every member of the public. Complicated forms and processes, language, and other barriers too often prevent those who need our programs from accessing them. All federal agencies must challenge themselves to do better and to share ideas for improvement through open communication with each other and the public that we serve. SSA values the opportunity to be a part of this Roundtable and will continue to work with legal aid groups, community advocacy organizations, and other claimant representative organizations.*

– KILOLO KIJAKAZI, ACTING COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

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## **Increase representation and assistance by lawyers and nonlawyers for people in administrative proceedings**

Even with significant simplification efforts and process improvements, many people still need assistance to access and obtain fair outcomes in certain proceedings. Under the Federal Administrative Procedure Act, which governs many federal administrative proceedings, a person “is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative.”<sup>48</sup> Studies show that legal assistance improves legal outcomes.<sup>49</sup> While fewer studies involve nonlawyers or other forms of assistance like agency ombuds offices, agencies are making available multiple forms of assistance to individuals in federal administrative proceedings to address the barriers that people face.

While people’s needs and experiences vary, assistance can be critical even in a proceeding that may appear simple. This is because people rarely experience proceedings in isolation, and the process is frequently compounded by additional hurdles. Barriers like trouble logging into an online account, inability to secure medical records requested by the agency, or inability to get childcare to attend a hearing, can compound to overwhelm those who do not have assistance.<sup>50</sup> Also, for people who seek access to multiple government programs, for instance arising from a workplace injury and loss of income, the need for assistance may be even greater to navigate multiple processes, often simultaneously.

The need for assistance also varies by the government programs and different stages of proceedings. For example, the level of difficulty of drafting an initial application or appeal hearing may vary, as may the process to engage in an interview with an investigator or appeal a finding. Accordingly, agencies will benefit from internal reviews to determine where greater access to assistance by lawyers, nonlawyers, or ombuds offices could be most impactful.

This section discusses the assistance provided to people in administrative proceedings through (A) lawyers, (B) nonlawyers, and (C) ombuds offices, and highlights federal agencies’ ongoing and recent work to support these categories of assistance.



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*The Department of Defense is proud to offer free, direct attorney and non-attorney assistance to eligible Service members and retirees across the globe. Our unique legal assistance programs help ensure that the brave women and men of our Armed Forces are secure at home, while they serve and protect our national interests abroad.*

– HON. CAROLINE KRASS, GENERAL COUNSEL, U.S. DEPARTMENT OF DEFENSE

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## A. Lawyers

Empirical studies examining the impact of legal representation in administrative proceedings, mostly involving government benefits, show that people achieve more favorable outcomes when they are represented by attorneys.<sup>51</sup> In the immigration field, one study found a dramatically higher rate of success for asylum claims (45.6% vs. 16.3%) with representation.<sup>52</sup> A government-conducted study showed a similarly positive impact of representation on case outcomes among respondents appealing adverse determinations in immigration court.<sup>53</sup> Also, the Government Accountability Office’s study of hearings-level allowance rates for disability claims showed that “claimants who had representatives, such as an attorney or family member, were allowed benefits at a rate nearly 3 times higher than those without representatives.”<sup>54</sup> Other studies showed that claimants for disability benefits with representation were more likely to have requested hearings and to have presented new evidence.<sup>55</sup>

*For certain proceedings with no fee availability for representatives, private attorneys don’t take those cases, and without dedicated funding for legal services, people have very few resources for legal help.*

– PAM WALZ, COMMUNITY LEGAL SERVICES OF PHILADELPHIA

*Disaster survivors have a difficult time presenting their case in paper only without being able to ask questions and collecting all necessary documents on their own while recovering from a disaster.*

– LAURA TUGGLE, SOUTHEAST LOUISIANA LEGAL SERVICES

Lawyers with relevant skills and experience are often best positioned to help people navigate administrative proceedings when they are too complicated or overwhelming to manage. Legal representation in administrative proceedings is not as common compared to civil or criminal court proceedings, as these agency proceedings are considered comparatively informal and not always adversarial,<sup>56</sup> and because legal help is frequently difficult to obtain. However, for the majority of Americans who cannot afford a private attorney, civil legal aid programs provide free legal services and represent people in wide ranging administrative cases, such as benefits appeals, employment discrimination matters, immigration cases, and student debt disputes.<sup>57</sup> Additionally, some programs like Social Security disability benefits and Supplemental Security Income allow for certain representatives to receive authorized fees directly from the past-due benefits awarded by the agency, incentivizing private representatives to assist people who are not otherwise able to afford fees.<sup>58</sup>

Yet, legal help is often out of reach for many people, and legal aid programs that offer free legal services to low-income individuals turn away many people with pressing legal needs due to limited program capacity.<sup>59</sup> The shortage of available lawyers is even more pronounced when an agency program does not have a process to assist with payment of authorized fees, and where there is no dedicated funding stream for the case type.<sup>60</sup>

The federal government has an important role in supporting people to get the legal help they need in administrative proceedings. Many LAIR agencies provide funding and training resources to legal aid programs for issues connected to agency missions.<sup>61</sup> Among them, the Legal Services Corporation (LSC) is the single largest funder of civil legal aid for low-income individuals in the United States.<sup>62</sup> In Fiscal Year 2022, LSC distributed \$468.4 million to 132 legal aid organizations that provided legal assistance to 1.8 million low-income people for civil justice matters, including those involving administrative proceedings.<sup>63</sup>

The government can help people access the assistance of lawyers through **increasing federal funding** for targeted civil legal services, aimed at the needs agencies identify in agency programs, and by **incorporating legal services into existing grant programs**. Government actors can also **encourage state and local partners** to incorporate legal assistance into the range of eligible services that they fund, especially pertaining to assistance in administrative proceedings. In developing these funding programs, agencies should balance the goal of crafting targeted services with the importance of holistic legal services that recognize how people experience multifaceted and interconnected legal issues, which may be best addressed in a holistic manner.<sup>64</sup>

Additionally, agencies can proactively **alert people to their right to have a representative** in a proceeding and **provide relevant information** at various points in administrative proceedings. For example, the Taxpayer First Act authorizes IRS employees to advise taxpayers about the availability of local low-income taxpayer clinics for assistance.<sup>65</sup> The Department of Justice Executive Office for Immigration Review (EOIR) maintains a list of pro bono legal service providers to help people find legal counsel.<sup>66</sup> Where possible, agency local offices may consider developing a **list of local legal service resources** in collaboration with local legal aid programs to share with claimants and applicants, as well as providing basic information on accessing legal assistance on their central websites.

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*Helping Veterans address their unmet legal needs can make the difference between retaining housing and becoming homeless, or between accessing the life-changing benefits and services they've earned and are going without. At the Department of Veterans Affairs (VA), we are committed to doing everything we can to help Veterans resolve legal issues that can create roadblocks to stability.*

*We are proud to welcome legal service providers into VA facilities across the country to host free legal clinics for Veterans, right where they receive care. We appreciate LAIR's continued focus on identifying opportunities within Federal agencies to enhance access to legal services for Veterans and all Americans.*

~ SECRETARY DENIS MCDONOUGH, DEPARTMENT OF VETERANS AFFAIRS

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## WHAT AGENCIES ARE DOING

- **Department of Veterans Affairs (VA).** In June 2023, VA awarded \$11.5 million to 79 legal aid and other organizations to help Veterans experiencing, or at risk of, homelessness with legal issues including Veterans' benefits, housing, family law, criminal defense in matters related to homelessness, and requests for military discharge upgrades. This is VA's first grant program focused on funding legal assistance for Veterans.
- **Department of Health and Human Services (HHS).** HHS's Administration for Community Living (ACL) funds legal services under the Older Americans Act, providing nearly one million hours of legal assistance to older adults each year in priority legal areas, such as access to appropriate housing in community settings, benefits, access to healthcare, rights of residents of congregate residential settings, and rights to self-determination, some of which involve federal administrative proceedings. Additionally, ACL's Legal Assistance Enhancement Program improves the delivery of legal assistance to older adults on many legal issues, including administrative matters, with a focus on underserved communities.<sup>67</sup>

ACL also funds the [Protection and Advocacy systems](#) in every state, providing advocacy and legal assistance to people with specified disabilities on the rights of disabled persons.

HHS's Office of Refugee Resettlement (ORR) Refugee Program awarded a legal services contract to the U.S. Committee for Refugees and Immigrants to create [Immigration Legal Services for Afghan Arrivals \(ILSAA\)](#). ILSAA built a centralized hub for providing legal services to Eligible Afghan Arrivals with the aim to help these individuals maintain eligible immigration status to be able to continue accessing our benefits and services. ILSAA also provides relevant trainings and translated resources to equip Afghan individuals with the knowledge and information necessary to navigate the U.S. legal immigration system and understand their various options for immigration relief. ILSAA operates nationally and leverages a network of legal services providers to serve all eligible Afghan arrivals. Additionally, ORR has funded legal services to State and Refugee Resettlement Agency grant recipients to support the immigration-related legal needs of Afghan Humanitarian Parolees.

ORR's Unaccompanied Children Program funds direct representation for unaccompanied children in removal proceedings. Legal services attorneys represent children in ORR custody and a limited number of children post-release, prioritizing children who are particularly vulnerable, such as those without sponsors or who otherwise have acute legal needs. Attorneys assist the children in applying for asylum, Special Immigrant Juvenile Status, and other forms of immigration relief. ORR is focusing on expanding the number of children with access to full direct representation in their immigration proceedings.

- **Department of Housing and Urban Development (HUD).** HUD's [Fair Housing Initiatives Program](#) provides funding to help people experiencing housing discrimination enforce their rights, including helping individuals file complaints with HUD.<sup>68</sup> The grants made under this program support the efforts of organizations in enforcing fair housing laws and educating the public about fair housing protections. In March 2023, HUD awarded \$54 million to 182 fair housing organizations, including legal aid organizations, to assist victims of housing discrimination.
- **Department of the Interior (DOI).** DOI's Bureau of Indian Affairs (BIA) funds representation for indigent individuals in Tribal courts as well as in proceedings before the Courts of Indian Offenses — also called “CFR Courts” — which are overseen by the BIA.<sup>69</sup> BIA also provides extensive training and technical assistance for Tribal advocates.

## B. Nonlawyers

While lawyers remain a critical source of legal representation, federal agencies have also long recognized the importance of nonlawyer assistance in administrative proceedings, and have permitted, and sometimes funded, nonlawyers to help meet people's need for legal help.<sup>70</sup>

This year, LAIR engaged in a review to understand the reach and impact of these nonlawyer practices in federal administrative proceedings. In this review, LAIR learned that 15 member agencies — all of the member agencies with relevant administrative proceedings — permit nonlawyers to provide assistance across many types of proceedings of varying complexity.<sup>71</sup>

LAIR learned that nonlawyers assist in all substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.<sup>72</sup> In some proceedings, nonlawyer assistance is relatively straightforward and procedural, such as assisting an individual with filing the correct form with the right boxes checked by the correct date. In other proceedings, nonlawyer assistance is highly technical and complex, such as representation in a removal proceeding in immigration court, delivered by a highly trained professional.

*There will never be enough lawyers to resolve all the legal problems that the community faces. Sometimes, community justice workers are more suitable to address cases than lawyers are. They are connected in ways that lawyers may not be as they are often close to or are members of the community. They are helping lawyers expand their reach and amplify the services.*

~ NIKOLE NELSON, ALASKA LEGAL SERVICES CORPORATION

Expanding nonlawyer assistance is also important because in many communities it may be the only form of assistance available due to the lack of available lawyers, particularly in remote or rural areas or areas without law schools. Nonlawyer assistance can also increase the representation of the community served by those providing legal help, because the time and cost of attending law school and bar exam requirements can often create difficulty for members of a community to become licensed lawyers. When nonlawyers have close ties to the community, they can also be instrumental in helping people overcome any distrust for public institutions, potentially further increasing access to legal help and government programs.

*In my community, the closest lawyer is over 90 miles away. There was no legal representation for any community members. The community justice worker [nonlawyer assistance] program dramatically helped my community and nearby non-Tribal communities with many things including helping people fill out SNAP applications and file appeals.*

~ JAMILYN FENN, QUTEKCAK NATIVE TRIBE

## Nonlawyers Providing Representation

Several agencies have a formal **accreditation** program, in which nonlawyers apply to represent individuals in the agency’s proceedings. Accreditation requirements vary agency-to-agency, but all require that accredited representatives remain in good standing and provide proof of accreditation to the adjudicator.

Federal agencies with formal accreditation programs include the Department of Veterans Affairs, Department of Justice Executive Office for Immigration Review, Department of Treasury Internal Revenue Service, Department of the Interior Bureau of Indian Affairs, and U.S. Patent and Trademark Office. Some programs require that accredited representatives work in organizations recognized by the agencies, and some require accreditation for both lawyers and nonlawyer representatives.

Apart from accredited programs, agencies generally have discretion to permit nonlawyer, nonaccredited, **qualified representatives** in administrative proceedings.<sup>73</sup> These representatives are considered “qualified” in administrative proceedings if they are chosen by litigants to represent them and adhere to the agency’s rules of conduct.<sup>74</sup> These representatives may be paid or unpaid, and they may be friends, family members, or trusted community members.<sup>75</sup>

Whether they administer an accreditation program or broadly permit nonlawyer representation, agencies should consider the varying needs for representation in their proceedings and identify steps to broaden the availability of such assistance where needed. This may involve identifying and **addressing any barriers to accreditation and streamlining the accreditation process**, if allowed under the governing statutes for accreditation programs. For those programs without formal accreditation, agencies can **provide clear guidance on allowability** of nonlawyers and relevant requirements. Agencies would also benefit from **increasing targeted outreach** to increase the number of representatives in underserved communities and, where possible, **funding** programs that support nonlawyer representatives along with other legal services.



Additionally, to facilitate nonlawyers who can **assist people in multiple programs across agencies**, agencies should ensure that **information about representation** such as the eligibility, required forms, and relevant code of conduct, is provided in plain language. Agencies may also take steps, where applicable, to align the practice requirements across agency programs.

## WHAT AGENCIES ARE DOING

- **Department of Veterans Affairs (VA).** VA manages the [accreditation](#) of representatives working for VA-recognized veterans service organizations (VSOs) and claims agents in nonlawyer roles, in addition to lawyers.<sup>76</sup> VSO representatives provide responsible and qualified representation to veterans free of charge on their VA benefits claims involving healthcare, pension, compensation, and education. As of October 2023, over 7,700 people are accredited with the VA as VSO-representatives and nearly 500 as claim agents.<sup>77</sup>

Under VA's current [initiative](#) to expand access to culturally competent representation for American Indian and Alaska Native Veterans, two Tribal VSOs are newly recognized by VA to assist Native Veterans with their VA benefits claims.<sup>78</sup>

- **Department of Treasury (Treasury).** Treasury's Internal Revenue Service (IRS) allows nonlawyer, [enrolled agents](#) and CPAs to represent taxpayers before the IRS in audits, appeals, tax collection matters, and other tax disputes.<sup>79</sup> To become an enrolled agent, one must either pass an IRS test or have experience as a former IRS employee. Once this status is obtained, agents must complete 72 hours of continuing education courses every three years. As of March 2023, over 65,000 people are on IRS's active enrolled agents listing.<sup>80</sup>

Treasury funds the [Low Income Taxpayer Clinics](#) (LITCs), which provide pro bono representation before the IRS by attorneys, CPAs, or enrolled agents to low-income individuals in tax disputes. In 2021, LITC represented 20,358 taxpayers, educated 143,260 taxpayers and service providers, helped secure \$6.7 million in refunds, and decreased or corrected \$62 million in tax liabilities.<sup>81</sup>



- **Patent and Trade Office (USPTO).** Nonlawyers who pass the patent bar examination, and who demonstrate the scientific and technical qualifications and moral character and fitness requirements, are authorized to file and prosecute patent applications on behalf of applicants before the USPTO. USPTO also administers a nationwide network of 21 regional programs matching patent agents and attorneys with financially under-resourced inventors and small businesses.
- **Social Security Administration (SSA).** Nonlawyers who possess the necessary qualifications may advise and assist claimants throughout SSA’s administrative processes. Nonlawyer representatives are subject to the same Rules of Conduct and Standards of Responsibility for Representatives as lawyer representatives.

Though not required, SSA permits nonlawyer representatives to apply for “EDPNA” (Eligible for Direct Pay Non-Attorney) status. Like attorney representatives, EDPNAs are eligible to have authorized fees paid directly to them by SSA out of claimant past-due benefits. As of October 2023, SSA has 843 active non-attorney representatives who have taken advantage of this program.

- **Legal Services Corporation (LSC).** LSC has funded the Alaska Legal Services Corporation (ALSC) to develop culturally appropriate training curricula for nonlawyers to serve as legal representatives in remote rural Alaskan Native communities. Alaska’s [Community Justice Worker program](#) assists low-income clients across the state in several substantive areas, including the Supplemental Nutrition Assistance Program (SNAP) application process. In the summer of 2022, when the state stopped processing SNAP applications and renewals, it created a backlog that exacerbated an ongoing hunger crisis in Alaska. The Community Justice Workers were immediately deployed, and as of July 2023, they have handled 404 cases, securing approximately \$5.5 million in SNAP benefits for clients, in collaboration with ALSC staff and pro bono attorneys.

Building on this success, in August 2023, LSC [awarded \\$4.7 million](#) to ALSC to build a joint disaster relief resource hub and training network to support community justice workers responding to 12 natural disasters in American Indian and Alaska Native communities served by ALSC, Montana Legal Services, Oklahoma Indian Legal Services, Anishinaabe Legal Services, and DNA People’s Legal Services. These programs will help disaster survivors with legal issues such as Federal Emergency Management Agency (FEMA) benefits applications and appeals.

- **Department of Labor (DOL).** DOL provides resources and training to nonlawyer representatives who assist workers with filing claims in administrative programs, such as the [Energy Workers Program](#). This program protects the interests of workers who were injured or became ill on the job, or their families, by making timely, appropriate, and accurate decisions on claims and providing benefits to eligible claimants. DOL provides webinars throughout the year about the Energy Workers Program's operation and benefits, and it runs periodic in-person trainings for representatives at various locations around the country to increase their competency.
- **Department of Homeland Security (DHS).** DHS's [Citizenship and Integration Grant Program](#) funds organizational service providers, including nonlawyer accredited representatives, to assist with naturalization applications and other needs. Through legal and other assistance at the application phase of the process, the program has helped more than 300,000 lawful permanent residents prepare to apply for U.S. citizenship.

## A multifaceted approach to using nonlawyers

The Department of Justice Executive Office for Immigration Review (EOIR) deploys nonlawyers in a variety of contexts to help people in immigration proceedings.

### LEGAL REPRESENTATION

Accredited nonlawyers represent individuals before EOIR, which includes immigration courts and the Board of Immigration Appeals, and the Department of Homeland Security. As of October 2023, approximately 2,300 accredited representatives provide services through nonprofit organizations approved through EOIR's [Recognition and Accreditation program](#).<sup>82</sup> EOIR's legal representation programs deploying nonlawyers as well as lawyers include:

- EOIR's Counsel for Children Initiative, which provided representation to 200 children across the country this past year.
- EOIR's National Qualified Representative Program, which provided government-appointed representatives to over 2,500 detained individuals who were found to be mentally incompetent to represent themselves in immigration court proceedings since 2013.

## INITIAL STAGE ASSISTANCE AND PROCESS NAVIGATION

Significantly staffed by nonlawyer accredited representatives, paralegals, and law students, EOIR's [Legal Access Programs](#) provide legal information and referrals to pro bono legal resources to noncitizens through group presentations, individual consultations, self-help workshops, assistance with document preparation, and Friend of the Court services.<sup>83</sup>

Over the past year, EOIR:

- Expanded the Legal Orientation Program to two additional large ICE detention facilities (35 in total) and served over 40,000 individuals.
- Increased the number of custodians served under the [Legal Orientation Program for Custodians of Unaccompanied Children](#), reaching close to 51,000 custodians — the highest number since the start of the program in 2010.
- Expanded the coverage for non-detained noncitizens with immigration court hearings served by the Immigration Court Helpdesk, now available in 24 immigration courts, and served over 12,000 individuals.
- Served over 12,000 noncitizen families through the Family Group Legal Orientation Program and recently expanded to remotely serve noncitizen families participating in the Family Expedited Removal Management program.

## Nonlawyers providing non-representational assistance

Navigators, lay advocates, and community advocates are some of the names people use for nonlawyers who provide non-representational assistance to meet people's legal needs. They may be AmeriCorps volunteers, social workers and case managers with basic legal training, or community volunteers with relevant training. These nonlawyers can play critical roles in achieving positive legal outcomes for people in federal administrative proceedings, and a growing number of agencies are supporting them as a standalone service or to complement attorney representation. This category of nonlawyers also includes paralegals who have long worked in law offices under attorney supervision. In addition to assisting the attorneys, paralegals often serve as the primary contact for the client and may lead representation in administrative proceedings.

Non-representational assistance provided by nonlawyers includes helping people complete forms and applications, helping to access legal information, assisting with navigating proceedings and answering procedural questions, and connecting individuals to legal and social service resources for holistic support.

Trained nonlawyers are particularly helpful in the early stages of administrative proceedings, where lawyers are rarely available or utilized. By helping people correctly file forms and navigate online portals, for example, nonlawyer assistance can improve people's chances of a favorable decision and reduce the need for amendments or appeals that can cause stress, result in delays, and complicate processes. Further, this assistance can reduce the personnel and administrative burdens on agencies by decreasing the number of secondary reviews or appeals.<sup>84</sup>

Government can increase nonlawyer assistance by **funding standalone programs** or by **adding flexibility to legal services or other government grants to allow the grantees to incorporate nonlawyer assistance**, when appropriate. Adding such flexibility can increase the number of individuals served by expanding the pool of people providing assistance and allowing legal aid programs to respond to the specific legal needs of their service areas.

Furthermore, agencies can improve the availability and quality of nonlawyer assistance within their administrative proceedings by **providing training and professional development resources** when permissible under the law and with available resources. Agencies can consider a broad range of resources that they can provide directly or through grant programs. They can offer trainings on technical skills and program operation and develop resource libraries to help people learn about agency processes, best practices, and any programmatic changes. Agencies can also provide targeted information through webinars, in-person workshops, and on-demand consultation. Such resources would benefit all types of representatives, allowing them to hone their skills and improve the quality of services they provide to their clients. To maximize the impact, agencies could tailor the training programs to address specific service gaps in underserved areas like rural or Tribal communities, as exemplified in the Community Justice Program in Alaska described above.

## WHAT AGENCIES ARE DOING

### **CASE STORY: A legal aid paralegal sifted through stacks of medical records to get an applicant the disability benefits he needed.**

“Marco” is a 64-year-old grandfather, neighbor, and friend. For decades, he ran his own cleaning business. Marco had to sell his business when he could no longer work due to congestive heart failure, heart disease, kidney disease, and diabetes.

Without his business, Marco had no income to pay for basic expenses and the medical care he needed to manage his many health problems. He applied for Social Security disability benefits but was denied. So, Marco reached out to the Legal Aid of Western Missouri for help.

A paralegal from the legal aid office represented Marco at his administrative hearing and obtained evidence after sifting through stacks of Marco’s medical records that convinced the judge that Marco was disabled and unable to work. He was awarded several thousand dollars in back payments, as well as monthly benefits to replace his lost income after the sale of his business. Now, Marco can live independently – and afford his health insurance.

- **Department of Labor (DOL).** In 2022, DOL started the \$18 million [Unemployment Insurance Navigator Grants program](#) to help states work with community-based organizations, including entities representing workers, to deliver timely benefits to all workers, with emphasis on those who have been historically underserved, marginalized, and adversely affected by poverty and inequality. Among other activities, the navigators conduct targeted outreach activities to assist workers in understanding initial eligibility requirements and application procedures so that eligible workers actually enroll and access the benefits.
- **Legal Services Corporation (LSC).** LSC’s Pro Bono Innovation Fund supports Legal Services of New York City’s pro bono program using nonlawyer volunteers to assist clients in navigating the complex process of obtaining housing assistance and other public benefits. In one of the pro bono clinics, volunteers help clients with online applications for the Supplemental Nutrition Assistance Program (SNAP), gathering and submitting all required documents, and staying in touch with the client and agency until the client secures the benefit.

- **Department of Health and Human Services (HHS).** HHS's [Connecting Kids to Coverage outreach and enrollment grants](#) support activities aimed at identifying and enrolling children who are eligible for Medicaid and the Children's Health Insurance Program (CHIP). The community-based organizations funded under this program utilize nonlawyers to educate families about the availability of Medicaid and CHIP and assist families with the application and renewal process.
- **Department of Health and Human Services (HHS).** HHS's Office of Refugee Resettlement (ORR) Unaccompanied Children Program funds legal service providers to provide unaccompanied immigrant children in ORR's care information about their rights, legal screenings to assess viability of available legal relief, and immigration court preparation services. Services not involving direct legal representation may be performed by nonlawyer legal advocates under the supervision of a licensed attorney.

Additionally, ORR funds child advocates who may be nonlawyers and help certain children under ORR's care. Whether a child advocate is a lawyer or a nonlawyer, their role is to help unaccompanied children understand legal and care-related issues, explain the consequences of decisions made in response to those issues, and assist children in making decisions when the child requests such help; further, they develop service plans containing best-interest recommendations with respect to the care, placement, and release options; and keep care providers, ORR, and legal service providers or attorneys of record apprised of such plans and advocacy efforts.

- **Department of Housing and Urban Development (HUD).** Since 2021, HUD's [Eviction Protection Grant Program](#) has funded free legal assistance to low-income tenants at risk or subject to eviction in housing court cases and other proceedings, including filing fair housing complaints related to eviction. Beyond legal representation, grantees provide a wide range of services through the program, such as housing court navigation, legal information hotlines, service provider referrals and benefits assistance, know-your-rights education, and outreach. Employing nonlawyer assistance is one way grantees have helped tenants avoid or mitigate the negative impacts of eviction.



- **Department of Justice (DOJ).** DOJ's Office on Violence Against Women supports lay advocates and accredited representatives in providing critical help for survivors of domestic violence, sexual assault, dating violence, and stalking. Lay advocates help survivors navigate federal benefits applications and legal proceedings, especially when language or cultural barriers exist, while accredited representatives provide legal assistance with federal proceedings and benefits including survivor-based immigration relief such as U, T visas, or VAWA petitions.
- **Department of Health and Human Services (HHS).** The Substance Abuse and Mental Health Services Administration (SAMHSA) in HHS runs the [SSI/SSDI Outreach, Access, and Recovery \(SOAR\)](#) program to increase access to Social Security disability benefits for eligible children and adults who are experiencing or are at risk of homelessness and have a serious mental illness, medical impairment, and/or co-occurring substance use disorder. The SOAR Technical Assistance Center trains nonlawyer SOAR case managers who provide comprehensive SSI/SSDI application assistance for eligible individuals. SOAR provides a free web-based curriculum on how to complete SSI/SSDI applications and maintains a resource library of articles, webinars, and other relevant materials.
- **Department of Justice (DOJ).** The [Tribal Civil and Criminal Legal Assistance Program](#) at DOJ's Bureau of Justice Assistance funds legal aid and indigent defense services by lawyers and nonlawyer advocates to low-income individuals and American Indian and Alaska Native Tribes for legal proceedings in Tribal courts and certain federal administrative proceedings, such as the probate proceedings before the Department of the Interior, Bureau of Indian Affairs.<sup>85</sup> In addition, this program funds training and technical assistance for advocates, including nonlawyers, through the National American Indian Court Judges Association. It runs training programs on topics like *Preserving Justice Through Traditional, International and Federal Systems* and the *UN Declaration on the Rights of Indigenous Peoples*, and provides tailored technical assistance to other grantees.



## C. Ombuds Offices

Another promising avenue for increasing access to justice in administrative proceedings lies in agency ombuds offices. Traditionally, an ombuds office's function is to receive and investigate complaints from outside of the agency, but the modern ombuds offices have evolved beyond this classical function to provide a variety of services to the public.<sup>86</sup> That includes some ombuds offices serving as public advocates and assisting the public in navigating confusing agency processes and acting as “switchboard operators” to direct people to appropriate resources.<sup>87</sup> Individuals with ongoing administrative cases can also seek case-specific assistance, although the capacity of ombuds offices to assist with cases varies.<sup>88</sup> While ombuds offices are generally set up through statutes and their ability to assist in individual cases is resource dependent, agencies should recognize ombuds office's role in increasing access to justice and **raise their profiles and capacity** in order for the public to learn about the offices and utilize this resource when they lack legal representation. Agencies without such offices can also **explore ways to replicate these services**.

### WHAT AGENCIES ARE DOING

- **Department of Treasury (Treasury).** The Taxpayer Advocate Service operates independently within the Internal Revenue Service (IRS) under Treasury to assist taxpayers who are experiencing financial hardship or are experiencing tax problems.<sup>89</sup> If a taxpayer qualifies for assistance, they will be assigned an advocate that will provide free assistance throughout the tax dispute process.<sup>90</sup> In addition to individualized assistance, the Taxpayer Advocate's [website](#) serves as a hub for educational and self-help resources for navigating IRS processes.<sup>91</sup> The Taxpayer Advocate also features a “Systematic Advocacy Management System” that allows members of the public to report systemic issues at the IRS or in tax law, encouraging broader reform throughout the agency.<sup>92</sup> The Taxpayer Advocate has had significant success in resolving both individual and systemic issues the public faced when interacting with the IRS.<sup>93</sup>

- **Department of Education (ED).** ED operates the Federal Student Aid Ombudsman Group, which is a neutral, informal, and confidential resource that can help members of the public resolve complaints about their federal student aid. While the Group does not replace formal channels of problem resolution and serves as an option of last resort for people who could not resolve those issues otherwise, it can help resolve disputes and issues related to federal student loans and grant disbursements. The Group can also help provide and clarify information about the federal student aid process, including explaining loan interest and collection charges, identifying options and resources, and clarifying requirements for loan deferment, forbearance, cancellation, or discharge.<sup>94</sup>
- **Department of Homeland Security (DHS).** The Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) serves as a liaison between the public and U.S. Citizenship and Immigration Services (USCIS) and helps individuals resolve their concerns with USCIS, holds engagements to hear from the public about their experiences with USCIS, and identifies problems in the immigration system and makes recommendations to USCIS on how to address these problems. Serving as an option of last resort for people who cannot resolve issues with USCIS, the CIS Ombudsman helps people with issues such as applications and petitions that were improperly rejected by USCIS due to clear errors of fact or obvious misapplication of the relevant law, typographic errors in immigration documents, and lost documents, files and/or file transfer problems between USCIS offices.<sup>95</sup>
- **Department of Health and Human Services (HHS).** The Administration for Community Living administers the Long-term Care Ombudsman program. The Long-Term Care (LTC) Ombudsman program is a consumer advocacy program that works to improve the quality of life and care for the estimated three million individuals of all ages who reside in over 75,700 long-term care facilities (over 15,800 licensed nursing facilities and 59,900 assisted living/board and care facilities). Ombudsmen resolve complaints with, and on behalf of, these residents, while advocating for systemic improvement of long-term services and supports, including routinely monitoring the condition of long-term care residential settings. Long-term Care Ombudsman Programs enter into Memoranda of Understanding to partner with Older Americans Act-funded legal assistance programs to back up Ombudsman advocacy and to assure legal representation of residents who need full representational legal services to resolve their issues.

## Global Efforts to Support Access to Administrative Programs

The Department of Justice, Office for Access to Justice and LAIR are mandated to “assist the United States with implementation of Goal 16 of the United Nations’ 2030 Agenda for Sustainable Development to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels.”<sup>96</sup> Specifically, Goal 16.3 calls on nations to “promote the rule of law at the national and international levels and ensure equal access to justice for all.”<sup>97</sup> Recognizing access to administrative programs and other legal systems as a central rule of law issue, U.S. agencies promote and fund programs to build capacity for assistance through lawyers and nonlawyers and other access to justice interventions in various parts of the world.

- **U.S. Agency for International Development (USAID).** In its 2023 Rule of Law Policy, USAID announced a “people-centered justice” approach that places individuals affected by the law at the core.<sup>98</sup> USAID funds the [Ukraine Justice for All](#) Project in Ukraine.<sup>99</sup> The project supports local Community Justice Centers (CJCs) that provide legal aid, social support services, and humanitarian assistance to marginalized populations. Through CJCs, community volunteers, administrative service providers, and others work with community members to access government services including social benefits, find housing, and prevent and resolve disputes.
- **Department of State (State).** State funds a program to strengthen migrant workers’ rights in Southeast Asia. Migrant workers in the region are often unable to exercise their labor rights and have no access to social protections. The COVID-19 pandemic has further exacerbated their vulnerabilities, particularly for women migrant workers who are over-represented in low-paid and low-skilled jobs. The program objectives include supporting workers and allied groups to advocate for labor inspectors to practice due diligence in enforcing labor laws within migrant labor workplaces, whether in formal or informal sectors.

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*USAID’s experience helping to strengthen the rule of law in countries around the world makes clear that nonlawyers, such as community paralegals, play a crucial role in increasing access to justice systems for people, particularly individuals from marginalized and vulnerable groups.*

– ADMINISTRATOR SAMANTHA POWER, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

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# What's Next

## Building an Evidence Base

LAIR is mandated to “advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices.”<sup>100</sup> Data is critical to understanding the experiences and outcomes of individuals in administrative proceedings. It enables agencies to evaluate the impact of access to justice interventions like nonlawyer assistance, and to craft solutions to address the challenges that people face in accessing government.

Access to justice issues in administrative proceedings are still an emerging area of research, although some promising projects do exist.<sup>101</sup> For example, in a recent article, one scholar introduced an access to justice framework based on state court reforms as a guide to improve federal administrative proceedings.<sup>102</sup> In another article, an empirical research study on state administrative proceedings provides helpful insights on procedural choices that may expand access to justice, including the use of nonlawyer representation.<sup>103</sup> Even so, studies of federal administrative proceedings with an explicit access to justice lens are few, and this is an area ripe for additional research.<sup>104</sup> Also, developing evidence-based policies and programs requires more and better data — or easier access to existing data — on the impact of access to justice interventions.

As noted previously, in 2023, LAIR collected a limited set of data from member agencies relating to administrative proceedings. Given the vastness of federal administrative programs, LAIR focused this year on those proceedings that people commonly accessed and are critical to core basic needs and basic rights.<sup>105</sup> In addition, LAIR reviewed information that member agencies shared on their initiatives or programs allowing nonlawyer assistance to access their programs, benefits, or services, or to navigate administrative processes. LAIR's broad review informed this Report, as did engagement with legal aid and other practitioners, discussions with LAIR agency partners, conversations with access to justice experts, and a review of available research.

The review of member agency information revealed that the agencies have diverse approaches and practices with respect to data collection. For example, some agencies collect data on the rate of representation for all or some of their administrative proceedings, but many do not. The existence and content of policies governing the conduct of legal representatives, accreditation requirements, and allowability of payment for representatives vary greatly agency-to-agency and program-to-program.

Considering the current limited data available across agency programs, the imperative – and the opportunity – is clear. More work is needed to develop the evidence base that will help agencies assess the impact of efforts, and to make tangible improvements to expand access to administrative proceedings.

This advancement will require additional support, which may require additional data analysts and supportive technology. It may also be useful to develop best practices for developing data collection tools and access to justice benchmarks, and to better share data with researchers to evaluate outcomes. The indicators established to measure national progress towards the UN Sustainable Development Goal 16.3 on equal access to justice may serve agencies in developing a framework for data collection and analysis related to administrative proceedings and other relevant processes.<sup>106</sup> LAIR agency partners may further benefit from engagement with the access to justice research community to identify research questions, develop creative strategies to harness the data necessary to answer those questions, and use what they have learned to iterate and improve existing practices.

As a notable agency activity example, the **National Science Foundation (NSF)** recently funded a [research grant](#) to evaluate the impact of the Alaska Community Justice Worker Program’s training and support, as well as its sustainability and scalability over time.<sup>107</sup> This program involves nonlawyer assistance including representation in administrative proceedings. In 2023, NSF awarded a follow-up expansion grant of \$1 million to advance this research, which will assess how it can be replicated in other parts of the country.

Also in 2023, NSF awarded funding for a [research workshop](#) “Access to Justice Research as a Tool for Advancing Federal Priorities,” bringing together researchers working on a range of topic areas in access to civil justice that intersect with critical federal goals, including those relating to housing, consumer debt, immigration, public benefits, and more.<sup>108</sup>

Moving forward, LAIR will continue to assess its mandate to “advance relevant evidence-based research [and] data collection,” and its directives to “assist the United States with implementation of Goal 16 of the United Nations’ 2030 Agenda for Sustainable Development,” and develop strategies to promote and enhance the collection of data to inform access to justice solutions.

## **Embedding and Solidifying LAIR’s Work and Structure**

LAIR’s 2023 focus on federal administrative proceedings shines a spotlight on the barriers people face in accessing benefits, services, and rights protection within these unique government processes. The strategies and agency activity examples listed in this Report surface the many opportunities before us to improve our programs and services to help people obtain just outcomes and bridge the gap in access to legal assistance. LAIR’s work this year further demonstrates that commitments to simplification in 2022 remain a high priority for member agencies.

Looking ahead, LAIR is solidifying and embedding a structure to continue this work to expand access to justice across government, including establishing LAIR committees. This will allow member agencies to carry out the work in multiple topic areas and maximize the impact through cross-agency learning and collaboration. These topics include:

- **Simplification:** Continuing the work started in 2022, LAIR will further explore opportunities to simplify government forms, processes, and language through engaging with stakeholders, including legal service providers, identifying promising practices, facilitating cross-agency learning, and developing initiatives to increase access to federal government programs and services with a reduced need for legal help.
- **Innovation:** LAIR will focus on continuous learning and incorporation of innovations and trends in legal assistance and other access to justice interventions, such as nonlawyer assistance and medical-legal partnerships, to advance access to justice and to further agency missions.

- **Research and Data:** LAIR will collaborate to advance the field of access to justice research and data collection to support evidence-based policymaking and better align administrative data collection with the principles of Sustainable Development Goal 16. Building on the work started in 2023, LAIR will continue to seek to identify the types of administrative data that would help agencies measure the fairness, efficiency, and accessibility of their administrative proceedings and programs, and will seek to explore mechanisms that will increase the accessibility of relevant data to access to justice researchers.

LAIR's work on these potential topics will build on our ongoing focus to support federal funding for legal aid and provide technical assistance to member agencies in their various efforts to advance access to justice. LAIR members will work together to refine the topic areas and potentially develop additional topics to fulfill LAIR's mandate and respond to emerging issues.

Collectively, we will continue to anchor our work in meaningful engagement with the communities served and impacted by government programs, and incorporate feedback from such engagement into our work. Through these efforts, we will further LAIR's mission to "increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status."<sup>109</sup>



# Appendix A – Acknowledgements

This report is a product of collaboration in vision, efforts, and resources among LAIR agency partners and input from legal aid and the greater access to justice community stakeholders who spoke at a LAIR listening session, presented at a LAIR meeting, and provided feedback. This appendix lists those contributors in grateful acknowledgement.

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# Appendix B – Federal Funding Programs for Legal Services and Nonlawyer Assistance

This section features an illustrative list of federal funding programs that currently support, supported in recent past, or can support various types of legal services in some capacity, including nonlawyer assistance, such as accredited representatives, legal navigators, and lay legal advocates, who may help individuals with applications, claims, and other requests for assistance from federal agencies and with any resulting federal administrative proceedings.

Some of the programs listed below fund grants that focus specifically on legal services and others fund legal services<sup>110</sup> and others fund legal services for beneficiaries in discrete circumstances. All of the grants include at least some limitations on the availability of federal funds for legal services and readers are encouraged to consult agency grant solicitations, program information on agency websites, and [grants.gov](https://www.grants.gov) for more information.

## Federal Funding Types

A **discretionary grant** is a merit-based award of funds to eligible applicants who apply directly to the federal agency. A federal grant-making agency accepts applications for discretionary funding, determines eligibility, reviews the contents of the application, and determines which applicants receive awards and the amount of funding to be awarded.

For **pass-through funds (block or formula grants)**, the funding amounts and spending parameters are set by federal law and agencies, but states have the flexibility to tailor spending to local priorities within those federal constraints. To access pass-through funds, applicants generally apply to the administering state and/or local government agencies or their grantees.

For additional background information about federal grants, see [grants.gov](https://www.grants.gov).

# Discretionary Grants

## Department of Justice

### ► Office on Violence Against Women

#### **Culturally Specific Services Program**

Supports culturally specific community-based organizations in addressing the critical needs of sexual assault, domestic violence, dating violence, and stalking victims in a manner that affirms a victim's culture.

• [Solicitation](#)

• [Program Information](#)

#### **Campus Program**

Strengthens the response of institutions of higher education in response to the crimes of sexual assault, domestic violence, dating violence, and stalking and enhances collaboration among campuses, law enforcement, and victim service providers.

• [Solicitation](#)

• [Program Information](#)

#### **Tribal Governments Program**

Enhances the ability of Tribes to respond to sexual assault, domestic violence, dating violence, stalking, and sex trafficking in their communities, and provide services for survivors, as well as develop education and prevention strategies.

• [Solicitation](#)

• [Program Information](#)

#### **Underserved Program**

Supports the development and implementation of strategies targeted at adult or youth victims of sexual assault, domestic violence, dating violence, or stalking in underserved populations, and victim services to meet the needs of such populations.

• [Solicitation](#)

• [Program Information](#)

#### **Justice for Families Program**

Supports improving the capacity of courts and communities to respond to families affected by domestic violence, dating violence, sexual assault, stalking, and child sexual abuse, including court-based and court-related programs and civil legal services.

• [Solicitation](#)

• [Program Information](#)

### **Training and Services to End Abuse in Later Life Program**

Supports a comprehensive approach to addressing elder abuse, neglect, and exploitation, including training and cross-training services for criminal justice professionals and professionals working with older victims.

- [Solicitation](#)
- [Program Information](#)

### **Legal Assistance for Victims Grant Program**

Supports civil and criminal legal assistance to victims of domestic violence, dating violence, stalking, or sexual assault, including representation services by BIA and VA accredited representatives and tribal court lay advocates.

- [Solicitation](#)
- [Program Information](#)

### **Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Program**

Supports projects that address and prevent sexual assault, domestic violence, dating violence, and stalking in rural areas, including advocacy and legal assistance.

- [Solicitation](#)
- [Program Information](#)

## **► Office for Victims of Crime**

### **Increasing Options and Expanding Access for Victims of Crime**

Supports innovative solutions to increasing service options and expanding access points for victims of crime in underrepresented communities.

- [Solicitation](#)
- [Program Information](#)

### **Developing Future Victim Specialists to Serve American Indian/ Alaska Native Victims of Crime**

Supports workforce development of victim service providers serving American Indian and Alaska Native victims of crimes in remote and hard-to-fill locations.

- [Solicitation](#)
- [Program Information](#)

## **► Bureau of Justice Assistance**

### **Tribal Civil and Criminal Legal Assistance (TCCLA) Program**

Supports capacity enhancement, access improvement, and civil and criminal legal services delivery to individuals and tribes within the tribal justice systems, including legal aid and indigent defense for low-income individuals and Indian tribes.

- [Solicitation](#)
- [Program Information](#)

### **Second Chance Act Community-Based Reentry Program**

Supports evidence-based programs to improve reentry, reduce recidivism, and support transitional planning for individuals currently or formerly involved in the criminal justice system, including civil legal assistance.

- [Solicitation](#)
- [Program Information](#)

### **Adult Treatment Court Program**

Supports the effective integration of evidence-based substance use disorder treatment, random drug testing, equitable sanctions and incentives, recovery support services and civil legal services in judicially supervised court settings to reduce recidivism and substance use and misuse, as well as prevent overdoses, for non-violent individuals involved in the justice system.

- [Solicitation](#)
- [Program Information](#)

### **Veterans Treatment Court Program**

Supports treatment courts, which include civil legal assistance among other services, for veterans involved in the justice system who have substance use disorders, including a history of violence and post-traumatic stress disorder because of their military service.

- [Solicitation](#)
- [Program Information](#)

## **Department of Health and Human Services**

### **► Administration for Children and Families**

#### **Medical-Legal Partnerships Plus**

Supports comprehensive legal services and wraparound social services to families with low incomes to address health-harming legal needs and improve their overall health.

- [Solicitation](#)
- [Program Information](#)

#### **Runaway and Homeless Youth-Prevention Demonstration Program**

Supports street outreach, emergency shelters, and longer-term transitional living and maternity group home programs to provide shelter and comprehensive supportive services for young people who have run away, are forced to leave their homes, or are experiencing homelessness or housing instability.

- [Solicitation](#)
- [Program Information](#)

### **Services for Survivors of Torture Grants**

Supports services for persons who were tortured in another country and now live in the United States.

• [Solicitation](#)

• [Program Information](#)

### **Family Violence Prevention and Services Domestic Violence and Sexual Assault Discretionary Grants**

Supports sexual assault and domestic violence services for individuals and families impacted by domestic violence, sexual assault, dating violence, and family violence, including culturally specific grants.

• [Solicitation](#)

• [Program Information](#)

## ▶ **Centers for Medicare & Medicaid Services**

### **Connecting Children to Health Coverage Cooperative Agreements**

Supports organizations that educate families about Medicaid and CHIP and help with their enrollment applications and renewals; includes cooperative agreements that aim to increase the participation of eligible, uninsured targeted low-income children, including American Indian/Alaskan Native children.

• [Solicitation](#)

• [Program Information](#)

## ▶ **Substance Abuse and Mental Health Services Administration**

### **Grants for the Benefit of Homeless Individuals**

Supports services for individuals experiencing homelessness who have substance use disorders or co-occurring mental and substance use disorders, including enrollment for health insurance, Medicaid, SSI/SSDI, and other mainstream benefits.

• [Solicitation](#)

• [Program Information](#)

## ▶ **Administration for Community Living**

### **Legal Assistance Enhancement Program**

Supports legal assistance enhancements and innovations, including outreach efforts and the delivery of full-range legal assistance to older adults.

• [Solicitation](#)

• [Program Information](#)

### **Treatment for Individuals Experiencing Homelessness (TIEH)**

Supports services for individuals, youth, and families with a serious mental illness, serious emotional disturbance, or co-occurring disorder who are experiencing homelessness or at imminent risk of homelessness, including enrollment for health insurance, Medicaid, and access to other benefits, including SSI/SSDI, TANF, and SNAP.

• [Solicitation](#)

• [Program Information](#)

### **MIPPA Medicare Beneficiary Outreach and Assistance Program: Funding for OAA Title VI Native American Programs**

Grantee must coordinate at least one community announcement and one outreach event to inform eligible Native American elders about the benefits available to them through Medicare Part D, LIS, MSP or Medicare prevention benefits and screenings.

• [Solicitation](#)

• [Program Information](#)

### **Advancing Aging Network Capacity to Recognize and Support Family, Kinship and Tribal Caregivers Grants**

Supports increasing awareness of, and outreach to, family caregivers.

• [Solicitation](#)

• [Program Information](#)

### **Elder Justice Innovation Grants**

Supports the prevention of elder maltreatment.

• [Solicitation](#)

• [Program Information](#)

## **Department of Veterans Affairs**

### **Legal Services for Homeless Veterans and Veterans At-Risk for Homelessness Grant Program**

Supports legal services to Veterans experiencing or at risk of homelessness, including housing, family law, income support, criminal defense, and discharge or dismissal upgrades.

• [Solicitation](#)

• [Program Information](#)

## Corporation for National and Community Service/ AmeriCorps

### AmeriCorps VISTA Projects

AmeriCorps VISTA is an anti-poverty program, applicants submit a proposal describing how they will utilize AmeriCorps members serving on the VISTA projects to build or increase capacity; some of the proposals will be invited to submit applications.

• [Solicitation](#)

• [Program Information](#)

### AmeriCorps Seniors Native Nations and Indigenous Elders Senior Demonstration Program

Supports quality of life of veterans and military families, caregivers, and survivors; social, economic, and/or educational services to Native and Indigenous people both on and off Native and Indigenous lands, and programming that advances justice and equality.

• [Solicitation](#)

• [Program Information](#)

## Legal Services Corporation

### Technology Initiative Grant Awards

Supports innovative ways to better serve clients, strengthening program capacity, and the work of pro bono attorneys.

• [Solicitation](#)

• [Program Information](#)

### Technology Adoption, Enhancement, and Expansion Grants

Continuation grants for the TIG grants used to further develop projects, integrate them effectively into the service delivery system, and complete the necessary activities for long-term success.

• [Solicitation](#)

• [Program Information](#)

### The Pro Bono Innovation Fund

Supports the engagement of more lawyers and non-legal professionals in pro bono service to address gaps in legal services and persistent challenges in the pro bono delivery system.

• [Solicitation](#)

• [Program Information](#)



## Department of Housing and Urban Development

### Continuum of Care grants

Provide funding for efforts by nonprofit providers, states, Indian Tribes or tribally designated housing entities and local governments to quickly rehouse homeless individuals, families, persons fleeing domestic violence, dating violence, sexual assault, and stalking, and youth.

- [Solicitation](#)
- [Program Information](#)

### Eviction Protection Grants Programs

Funds free legal assistance to low-income tenants at risk or subject to eviction in housing court cases and other proceedings, including filing fair housing complaints related to eviction.

- [Program Information](#)

### Comprehensive Housing Counseling Grant Program

Supports HUD-Approved [Housing Counseling Agencies](#) in the provision of a wide array of counseling services, including pre- and post-purchase, reverse mortgage, fair housing, financial education, landlord/tenant, credit, no-cost foreclosure, homeless rehousing, disaster relief, and eviction prevention services. Many HUD approved Housing Counseling Agencies are also legal service agencies and/or private not for profit fair housing organizations, and all HUD Approved HCAs partner and refer to legal service providers.

- [Solicitation](#)
- [Program Information](#)

## Department of Homeland Security

### Citizenship and Integration Grant Program

Supports having an accredited representative appear with clients at the naturalization interview, among other services.

- [Solicitation](#)
- [Program Information](#)

### Community and Regional Integration Network Grant

Supports naturalization application services within the scope of the authorized practice of immigration law at no cost to the enrolled program participant.

- [Solicitation](#)
- [Program Information](#)

## Department of Labor

### Reentry Employment Opportunities grants

Supports legal services to justice-involved youth, young adults, and adults who are currently or formerly incarcerated, through partnerships with other social service and justice-oriented entities.

- [Solicitation \(Growth Opportunities\)](#)
- [Solicitation \(Pathway Home\)](#)
- [Program Information](#)

## Department of the Treasury

### Low-Income Tax Clinic Grants

IRS-funded tax clinics help low-income taxpayers resolve their issues with the IRS and provide education about a variety of tax topics, including rights and responsibilities as U.S. taxpayers.

- [Solicitation](#)
- [Program Information](#)

### Tax Counsel for the Elderly Grants

Funds free tax help to those 60 or older.

- [Solicitation](#)
- [Program Information](#)

### Community Volunteer Income Tax Assistance

Supports tax services for underserved populations in the hardest to reach areas.

- [Solicitation](#)
- [Program Information](#)

# Pass-Through Funding (Formula and Block Grants)

## **AmeriCorps**

CNCS provides grants for organizations serving in concentrated poverty, rural communities, Tribal communities, and those organizations serving historically underrepresented and underserved individuals, including but not limited to communities of color, immigrants and refugees, people with disabilities, people who identify as part of the LGBTQIA+ community; Veterans and Military Families, Caregivers, and Survivors, people with arrest and/or conviction records, and religious minorities.

- [Funding Information](#)

## **Community Development Block Grant (CDBG)**

HUD's CDBG Program provides grants to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. This grant can be used to help fund public services within certain limits, which include legal services.

- [Funding Information](#)

## **Community Mental Health Services Block Grant**

These HHS SAMHSA grants support comprehensive community mental health services. The services target adults with serious mental illness and children with serious emotional health disturbances.

- [Funding Information](#)

## **Community Services Block Grant**

HHS ACF's CSBG program provides funds for services and activities addressing employment, education, income and asset building services, housing, nutrition, emergency services, and/or healthcare based on community needs assessments conducted by the local entities.

- [Funding Information](#)

## **Family Violence Prevention and Services Formula Grants (FVPSA)**

HHS ACF's FVPSA grants provide shelter, safety planning, crisis counseling, information and referral, legal advocacy, and additional support services to persons experiencing domestic/dating violence and to their dependents.

- [Funding Information](#)

### **Housing Opportunities for Persons with AIDS (HOPWA) Program**

Under the HOPWA Program, HUD makes grants to local communities, States, and nonprofit organizations for projects that benefit low-income persons living with HIV/AIDS and their families.

- [Program Information](#)

### **Older Americans Act Grants**

HHS ACL's OAA grants fund support services for people 60 and over, with an emphasis on identifying and serving low income, rural, minority and limited English proficient older individuals, including legal assistance.

- [Funding Information](#)

### **PAIR Formula Grant Awards**

Supports the protection and advocacy system in each state to protect the legal and human rights of individuals with disabilities.

- [Funding Information](#)

### **Projects for Assistance in Transition from Homelessness (PATH)**

HHS SAMHSA's PATH formula grants support services for individuals with serious mental illness who are experiencing homelessness, including assistance obtaining income support services.

- [Funding Information](#)

### **Protection & Advocacy for Individuals with Mental Illness (PAIMI)**

HHS SAMHSA's PAIMI formula grant supports Protection and Advocacy systems to protect and advocate for the rights of individuals with serious mental illness or serious emotional disturbance by providing legal-based advocacy services and investigating abuse, neglect, and rights violations.

- [Funding Information](#)

### **Sexual Assault Services Formula Grant Program (SASP)**

DOJ OVW grants help fund services, direct intervention, and related assistance to victims of sexual assault and their families.

- [Funding Information](#)

### **Social Services Block Grant (SSBG)**

HHS ACF's flexible funding source that allows states and territories to tailor social service programming to their population's needs under 29 Uniform Definition of Services, including Legal Services.

- [Funding Information](#)

### **State Opioid Response grants (SOR)**

HHS SAMHSA's grants fund efforts to increase access to FDA-approved medications for the treatment of opioid use disorder, and for supporting the continuum of prevention, harm reduction, treatment, and recovery support services for opioid use disorder and other concurrent substance use disorders.

- [Funding Information](#)

### **STOP (Services \* Training \* Officers \* Prosecutors) Violence Against Women Formula Grant Program**

DOJ STOP grants support the development and strengthening effective responses to domestic violence, dating violence, sexual assault, and stalking, including legal assistance and court advocate programs.

- [Funding Information](#)

### **Substance Use Prevention, Treatment, and Recovery Services Block Grant (SUPTRS BG)**

HHS SAMHSA's block grant is the largest Federal grant program dedicated to improving publicly funded substance abuse prevention and treatment systems.

- [Funding Information](#)

### **Temporary Assistance for Needy Families (TANF) Funding**

HHS ACF provides funds to help low-income families with children achieve economic mobility through cash assistance, employment and training assistance, and related services. In certain limited circumstances, TANF funds can be used for the resolution of legal problems if the expenditure is reasonably calculated to accomplish one of the TANF purposes and is reasonable, allocable, and allowable under 45 C.F.R. Part 75.

- [Funding Services](#)

### **Title IV-D Funding**

HHS ACF provides funds to help (1) locate parents; (2) establish paternity; (3) establish child support obligations; and (4) enforce child support orders.

- [Funding Information](#)

### **Title IV-E Funding**

HHS ACF provides foster care funds and adoption assistance funds to help prevent children from being placed in foster care, help children return safely to their homes, and help children get adopted or placed in another other permanent living arrangement. ACF policy allows IV-E agencies to receive IV-E reimbursement for a portion of the costs of providing legal services for both children and parents in foster care proceedings.

- [Funding Information \(foster care\)](#)
- [Funding Information \(adoption assistance\)](#)

### **Tribal Victim Services Set-Aside Formula**

DOJ OVC's funding supports victim services in American Indian/Alaska Native communities, including direct services to victims and community outreach and education.

- [Solicitation](#)
- [Program Information](#)

### **Victims of Crime Act (VOCA) Victim Assistance Formula Grants.**

DOJ OVC grants fund assistance to crime victims, including crisis counseling, telephone and onsite information and referrals, criminal justice support and advocacy, shelter, therapy, and additional assistance.

- [Funding Information](#)

### **Workforce Innovation and Opportunity Act State Formula Grants**

DOL grants are designed to strengthen and improve our nation's public workforce system and help get Americans, including youth and those with significant barriers to employment, into high-quality jobs and careers and help employers hire and retain skilled workers. Legal aid services are one of the supportive services allowable under this program.

- [Funding Information](#)

# Endnotes

- <sup>1</sup> Memorandum on Restoring the Department of Justice's Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable, 86 Fed. Reg. 27793, 27794 § 3 (May 18, 2021), <https://www.federalregister.gov/documents/2021/05/21/2021-10973/restoring-the-department-of-justices-access-to-justice-function-and-reinvigorating-the-white-house> [hereinafter Restoring the Department of Justice's Access-to-Justice Function]. LAIR is led and staffed by the Department of Justice, Office for Access to Justice.
- <sup>2</sup> White House Legal Aid Interagency Roundtable, *Expanding Access to Justice, Strengthening Federal Programs: First Annual Report of the White House Legal Aid Interagency Roundtable* (November, 2016), <https://www.justice.gov/atj/page/file/913981/download>.
- <sup>3</sup> White House Legal Aid Interagency Roundtable, *Access to Justice in the Age of COVID-19*, (September 2021), <https://www.justice.gov/ag/page/file/1445356/download>.
- <sup>4</sup> See Jeremy Graboyes & Mark Thomson, Report for the Administrative Conference of the United States: Public Access to Agency Adjudicative Proceedings 5 (2021).
- <sup>5</sup> For example, in the context of removal proceedings, the immigration court functions as the adjudicative body, with immigration judges reviewing evidence and testimony to determine a noncitizen's eligibility for immigration relief and other matters. Immigration courts are part of the Department of Justice, Executive Office for Immigration Review, and immigration judges are Department of Justice employees and agents. While Department of Homeland Security (DHS) components function as the adjudicative body in some contexts, in the removal proceeding context, DHS's Immigration and Customs Enforcement instead functions as the prosecuting body and files a Notice to Appear with the immigration court to initiate proceedings against noncitizens they allege are removable.
- <sup>6</sup> See Administrative Conference Recommendation 2021-6: Public Access to Agency Adjudicative Proceedings, 87 Fed. Reg. 1715 (Jan. 12, 2022), <https://www.govinfo.gov/content/pkg/FR-2022-01-12/pdf/2022-00463.pdf> ("Agencies adjudicate millions of cases each year. The matters they adjudicate are diverse, as are the processes they use to do so."). The U.S. Department of Veterans Affairs, just one federal agency, completed over 1.7 million claims in 2022. *Detailed Claims Data*, U.S. Dep't of Veterans Affs. (Sept. 25, 2023), [https://www.benefits.va.gov/reports/detailed\\_claims\\_data.asp](https://www.benefits.va.gov/reports/detailed_claims_data.asp).
- <sup>7</sup> Soc. Sec. Admin., Justification of Estimates for Appropriations Committees Fiscal Year 2024, at 13 (2023).
- <sup>8</sup> *About Us*, Fed. Student Aid, <https://studentaid.gov/about> (stating that Federal Student Aid processes "more than 17.6 million FAFSA forms each year"); Fed. Student Aid, U.S. Dep't of Educ., Federal Student Aid Portfolio Summary (2023), <https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioSummary.xls>.
- <sup>9</sup> See U.S. Citizenship & Immigr. Servs., Fiscal Year 2022 Progress Report 3 (2022) (reporting that USCIS completed over one million naturalization cases in fiscal year 2022); U.S. Dep't of Just., Executive Office for Immigration Review Adjudication Statistics (2023), <https://www.justice.gov/media/1174681/dl?inline>.
- <sup>10</sup> Numerous federal agency proceedings involve regulated industry entities, but they are outside the scope of this Report.
- <sup>11</sup> See 20 C.F.R. 416.1400 (2023), <https://www.ecfr.gov/current/title-20/section-416.1400>.
- <sup>12</sup> See *Decision Reviews FAQs*, U.S. Dep't of Verterans Affs. (Apr. 21, 2023), <https://www.va.gov/resources/decision-reviews-faqs/>.
- <sup>13</sup> See *File a Complaint*, Occupational Safety & Health Admin., <https://www.osha.gov/workers/file-complaint> (last visited Sept. 27, 2023).
- <sup>14</sup> See *Learn About the FHEO Complaint and Investigation Process*, U.S. Dep't of Hous. & Urb. Dev., [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/complaint-process#\\_Process\\_for\\_Complaints](https://www.hud.gov/program_offices/fair_housing_equal_opp/complaint-process#_Process_for_Complaints) (last visited Sept. 28, 2023).
- <sup>15</sup> See *IRS Audits*, Internal Revenue Serv. (Aug. 17, 2023), <https://www.irs.gov/businesses/small-businesses-self-employed/irs-audits>; Internal Revenue Serv., *Your Rights as a Taxpayer* (2017), <https://www.irs.gov/pub/irs-pdf/p1.pdf>; IRSvideos, *Appeals Process: Collection Issues*, YouTube (Oct. 24, 2016), <https://www.youtube.com/watch?v=jtW8PEpUAY0>.



- <sup>16</sup> See generally Krisztina E. Szabo et al., Nat'l Immigr. Women's Advoc. Project, Comparison Chart of U Visa, T Visa, Violence Against Women Act (VAWA) Self-Petition, Special Immigrant Juvenile Status (SIJS), and Deferred Action Childhood Arrivals (DACA) (2021), <https://niwaplibrary.wcl.american.edu/wp-content/uploads/IMM-Chart-U-T-VAWA-SIJS-DACA7.10.15.pdf>.
- <sup>17</sup> See generally U.S. Dep't of Just., Exec. Off. for Immigr. Rev., Immigration Court and Appellate Processes, [https://icor.eoir.justice.gov/immigration\\_court\\_and\\_appeal\\_process\\_external.pdf](https://icor.eoir.justice.gov/immigration_court_and_appeal_process_external.pdf) (last visited Oct. 12, 2023); EOIR, *Introduction to the Model Hearing Program and Immigration Court Processes and Procedures*, YouTube (Jan. 24, 2022), <https://www.youtube.com/watch?v=tgDYWZ3l-us>. U.S. Dep't of Just., Exec. Off. for Immigr. Rev., Fact Sheet – Executive Office for Immigration Review: An Agency Guide 2, 6–7 (2017), [https://www.justice.gov/eoir/page/file/eoir\\_an\\_agency\\_guide/download](https://www.justice.gov/eoir/page/file/eoir_an_agency_guide/download).
- <sup>18</sup> See White House Legal Aid Interagency Roundtable, *Access to Justice through Simplification. A Roadmap for People-Centered Simplification of Federal Government Forms, Processes, and Language* (2022), <https://www.justice.gov/d9/2023-03/Legal%20Aid%20Interagency%20Roundtable%202022%20Report.pdf>.
- <sup>19</sup> See *Government Benefits*, USAGov, <https://www.usa.gov/benefits> (last visited Oct. 24, 2023) (providing information and guidance for state and federal public benefits programs, including those related to food, housing, and disability programs).
- <sup>20</sup> Pamela Herd et al., Draft Report to the Administrative Conference of the U.S.: Identifying and Reducing Burdens in Administrative Processes 42 (Sept. 29, 2023), at 16-17, <https://www.acus.gov/document/draft-report-identifying-and-reducing-burdens-administrative-processes>.
- <sup>21</sup> Marla McDaniel et al., Urban Inst., Customer Service Experiences and Enrollment Difficulties Vary Widely Across Safety Net Programs 2 (2023), <https://www.urban.org/research/publication/customer-service-experiences-and-enrollment-difficulties> (finding that more than four in ten adults reported difficulties with unemployment insurance, TANF, and SNAP; and that about three in ten adults reported difficulties with Medicaid/CHIP, SSI, SSDI, and rental assistance).
- <sup>22</sup> See *id.* at 4 (“Understanding eligibility is often just the first hurdle that people must overcome in accessing the safety net. Many people who qualify for benefits also struggle to navigate complicated administrative processes.”); see also Karena Phan & Philip Marcelo, *Online Posts Spread Misinformation About FEMA Aid Following Maui Wildfires*, Associated Press (Aug. 18, 2023, 8:21 PM), <https://apnews.com/article/maui-wildfires-hawaii-fema-misinformation-8562e2e81e03626acc5be30700d73120> (reporting that misinformation about applying for federal disaster assistance risks discouraging disaster survivors from accessing that assistance).
- <sup>23</sup> See Joshua D. Blank & Leigh Osofsky, Report for the Administrative Conference of the United States: Automated Legal Guidance at Federal Agencies 24 (2022), <https://www.acus.gov/document/final-report-automated-legal-guidance> (noting that federal agency officials stressed that long, complex information can overwhelm people rather than help guide them).
- <sup>24</sup> For example, a study found that agencies’ use of chatbots on their websites to help simplify legal content for users could have the adverse effect of misleading users about the law. See Joshua D. Blank & Leigh Osofsky, Report for the Administrative Conference of the United States: Automated Legal Guidance at Federal Agencies 32 (2022).
- <sup>25</sup> Administrative Conference Recommendation 2017-3: Plain Language in Regulatory Drafting, 82 Fed. Reg. 61728-30 (Dec. 29, 2017), <https://www.federalregister.gov/documents/2017/12/29/2017-28124/adoption-of-recommendations> (describing the challenges in regulatory drafting).
- <sup>26</sup> See Earle Kimel, *Turned Down for Federal Hurricane Ian Assistance? FEMA Officials Say Don't Stop Trying*, Herald-Tribune (Oct. 27, 2022, 9:28 AM), <https://www.heraldtribune.com/story/weather/hurricane/2022/10/27/hurricane-ian-fema-assistance-official-says-multiple-reasons-application-denied-keep-trying-appeal/10608960002/> (quoting a FEMA official as noting that “[p]eople see that first paragraph in that letter and they just throw it away and think that’s the end of the road,” without taking steps to appeal the benefits denial).
- <sup>27</sup> See *NTA Blog: EITC Audits: What You Need to Know*, Taxpayer Advocate Serv., Internal Rev. Serv. (Aug. 30, 2023), <https://www.taxpayeradvocate.irs.gov/news/nta-blog-eitc-audits-what-you-need-to-know/> (noting that there was no taxpayer response in almost 38% of Earned Income Tax Credit (EITC) audits, and that 25% of EITC audits resulted in taxpayer defaults).
- <sup>28</sup> These challenges were communicated at the June 2023 LAIR listening session with 15 legal aid providers and practitioners.



- <sup>29</sup> See Morgan Kelly, *Poor Concentration: Poverty Reduces Brainpower Needed for Navigating Other Areas of Life*, Princeton Univ. (Aug. 29, 2013, 2:00 PM), <https://www.princeton.edu/news/2013/08/29/poor-concentration-poverty-reduces-brainpower-needed-navigating-other-areas-life>.
- <sup>30</sup> See Pamela Herd et al., *Introduction: Administrative Burden as a Mechanism of Inequality in Policy Implementation*, 9 *Russel Sage Found. J. Soc. Sci.*, no. 5, 2023, at 1, 6, <https://www.rsjournal.org/content/rsfjss/9/5/1.full.pdf>; Noral Delaney, *Does Reducing Stigma Increase Participation in Benefit Programs? Research Suggests So.*, Harvard Kennedy Sch. (Dec. 7, 2022), <https://www.hks.harvard.edu/faculty-research/policy-topics/social-policy/does-reducing-stigma-increase-participation-benefit> (suggesting that stigma surrounding government assistance discourages eligible participants from applying).
- <sup>31</sup> See Legal Services Corporation, *The Justice Gap: The Unmet Civil Legal Needs of Low-income Americans* (2022).. Prepared by Mary C. Slosar, Slosar Research, LLC, at 22-26, 58-65 (discussing the changing justice gap by different income and demographic groups); Hague Inst. for Innovation of L. & Inst. for the Advancement of the Am. Legal Sys., *Justice Needs and Satisfaction in the United States of America 17* (2021) (finding multiracial and Black Americans, and those living in rural environments, to be among the most vulnerable when examining the rates at which people encounter legal problems); Qudsiya Naqui, *Advancing Equal Access to Justice for Americans with Disabilities*, Off. for Access to Just. (July 26, 2023) (describing the challenges that people with disabilities experience when interacting with the American legal system); Herd et al., *supra* note 20, at 42 (noting legal aid organizations' comments that language access programs were not being used throughout government service and benefit systems).
- <sup>32</sup> See McDaniel et al., *supra* note 21, at 2-3 ("In the two programs with the largest number of participants, Medicaid/CHIP and SNAP, enrollment difficulties and poor treatment were more common among some groups that have experienced long-standing inequities, including Hispanic/Latinx adults and people with disabilities."); Herd et al., *supra* note 30, at 9-10.
- <sup>33</sup> See generally Admin. Conf. of the U.S. & U.S. Dep't of Just., *Promising Practices for Language Access in Federal Administrative Hearings and Proceedings* (2011), <https://www.acus.gov/sites/default/files/documents/acus-doj-language-access-rpt.pdf>.
- <sup>34</sup> See Just. in Aging, *Improving Access for SSI and Social Security Beneficiaries 2-3* (2022).
- <sup>35</sup> See *Disability Impacts All of Us*, Ctrs. for Disease Control & Prevention (May 15, 2023), <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html> ("Up to 1 in 4 (27 percent) adults in the United States have some type of disability.").
- <sup>36</sup> Michelle Cao, *Switched Off: Why Are One in Five U.S. Households Not Online?*, Nat'l Telecomms. & Info. Admin., <https://www.ntia.gov/blog/2022/switched-why-are-one-five-us-households-not-online> (last visited Oct. 13, 2023).
- <sup>37</sup> Saida Mamedova & Emily Pawlowski, *A Description of U.S. Adults Who Are Not Digitally Literate 2-3* (2018).
- <sup>38</sup> *Id.* at 6.
- <sup>39</sup> Following the issuance of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, in 2021, a number of federal agencies prepared Equity Action Plans that contain agencies' assessment of barriers to equitable outcomes and their commitments to redress inequities. The agency equity action plans included in this table are accessible through individual agency websites and also through Performance.gov at <https://www.performance.gov/equity/#action-plans>.
- <sup>40</sup> See generally *Legal Aid Interagency Roundtable, Access to Justice Through Simplification* (2022), <https://www.justice.gov/d9/2023-03/Legal%20Aid%20Interagency%20Roundtable%202022%20Report.pdf>.
- <sup>41</sup> *Id.* at 11. The Roadmap includes (1) Understand the program, (2) Implement strategies, (3) Evaluate outcomes.
- <sup>42</sup> For discussions on expanding access to technology and virtual services, including agency examples of conducting hearings remotely, see *Legal Aid Interagency Roundtable, Access to Justice in the Age Of Covid-19: A Roundtable Report 18-21* (2021), [https://www.justice.gov/d9/pages/attachments/2021/10/29/white\\_house\\_legal\\_aid\\_interagency\\_roundtable\\_report\\_10.19.21.pdf](https://www.justice.gov/d9/pages/attachments/2021/10/29/white_house_legal_aid_interagency_roundtable_report_10.19.21.pdf).
- <sup>43</sup> For additional discussion of the use of virtual hearings, see *Frederic I. Lederer & the Ctr. for Legal & Ct. Tech, Analysis of Administrative Agency Adjudicatory Hearing Use of Remote Appearances and Virtual Hearings* (June 3, 2021), <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3081&context=facpubs> (report to the Administrative Conference of the U.S.).

- <sup>44</sup> Guide to Writing Appeal Briefs for Unrepresented Complainants Before the EEOC Office of Federal Operations, U.S. Equal Employment Opportunity Comm'n (Jan. 2022), <https://www.eeoc.gov/guide-writing-appeal-briefs-unrepresented-complainants-eeoc-office-federal-operations>.
- <sup>45</sup> Department of Justice Language Access Plan, U.S. Dep't of Just. (Aug. 22, 2023), <https://www.justice.gov/atj/departments-justice-language-access-plan>.
- <sup>46</sup> "People-first language" respectfully puts the person before the disability, emphasizing the person first, not the disability. Examples include "person with a disability" and "children with disabilities," as opposed to phrases that identify people based solely on their disability, such as "the disabled."
- <sup>47</sup> File a Complaint with FTA, U.S. Dep't of Transp. (May 12, 2023), <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/file-complaint-fta>.
- <sup>48</sup> 5 U.S.C. § 555(b). However, the constitutional right to the effective assistance of counsel does not apply to administrative proceedings. See 2 Am. Jur. 2d Administrative Law § 309; *Gandarillas-Zambrana v. Board of Immigration Appeals*, 44 F.3d 1251 (4th Cir. 1995); *Rattray v. Novello*, 46 A.D.3d 953, 847 N.Y.S.2d 258 (3d Dep't 2007).
- <sup>49</sup> Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 Pepp. L. Rev. 881, 910-19 (2016), <https://digitalcommons.pepperdine.edu/plr/vol43/iss4/1/>; Hilary W. Hoynes, Nicole Maestas & Alexander Strand, *Legal Representation in Disability Claims* (Nat'l Bureau of Econ. Rsch., Working Paper No. 29871, 2020); Rebecca L. Sandefur, *The Impact of Counsel: An Analysis of Empirical Evidence*, 9 Seattle Journal for Social Justice 51, 52 (2010).
- <sup>50</sup> Herd et al., *supra* note 20, at 42, <https://www.acus.gov/document/draft-report-identifying-and-reducing-burdens-administrative-processes> ("Burdens exist in both situations, but the cumulative burdens experienced without legal representation can be overwhelming to the point of foregoing benefits rightly entitled. In other cases, errors exacerbated through lack of assistance can result in benefits being wrongly denied.").
- <sup>51</sup> See Emily S. Taylor Poppe & Jeffrey J. Rachlinski, *Do Lawyers Matter? The Effect of Legal Representation in Civil Disputes*, 43 Pepp. L. Rev. 881, 910 (2016), <https://digitalcommons.pepperdine.edu/plr/vol43/iss4/1/>.
- <sup>52</sup> See *id.* at 914 (citing *Jaya Ramji-Nogales et al., Refugee Roulette: Disparities in Asylum Adjudication*, 60 Stan. L. Rev. 295, 340 (2007)).
- <sup>53</sup> *Id.* at 914-15 (citing Charles H. Kuck, *Legal Assistance for Asylum Seekers in Expedited Removal* 239 (2004), [https://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum\\_seekers/legalAssist.pdf](https://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/legalAssist.pdf)).
- <sup>54</sup> *Social Security Disability: Additional Measures Needed to Enhance Accuracy and Consistency of Hearings Decisions*, U.S. Gov. Accountability Off. (Jan. 8, 2018), <https://www.gao.gov/products/gao-18-37>.
- <sup>55</sup> See Taylor Poppe & Rachlinski, *supra* note 51, at 914 (citing William D. Popkin, *The Effect of Representation in Nonadversary Proceedings — A Study of Three Disability Programs*, 62 Cornell L. Rev. 989, 1016-19 (1977)).
- <sup>56</sup> See *id.* at 910 (2016).
- <sup>57</sup> For a review of studies evaluating legal representation in administrative hearings, see *id.* at 910-19.
- <sup>58</sup> See, e.g., 20 C.F.R. §§ 404.1730, 416.1530 (2023) (rules related to direct payment of fees from past-due Social Security benefits to attorneys and eligible non-attorney representatives); see also *Direct Payment to Eligible Non-Attorney Representatives*, Soc. Sec. Admin., <https://www.ssa.gov/representation/nonattyrep.htm> (last visited Oct. 25, 2023).
- <sup>59</sup> See *The Justice Gap*, *supra* note 31.
- <sup>60</sup> In Social Security cases, for example, people are more likely to obtain representation for their disability benefits applications because direct payments of authorized fees is available to eligible representatives when there are past-due benefits. However, direct payment of authorized fees is usually not available in overpayment cases where the agency determines that it paid a person more than they should have been paid, because there generally would be no past-due benefits to withhold for direct payment. This might make it more difficult for the representative to collect the authorized fee from the claimant, putting more pressure on legal aid programs, which often lack capacity.

- <sup>61</sup> See Appendix B for an illustrative list of federal funding programs that support legal services and nonlawyer assistance. As reflected in the American Bar Association’s *ABArray U.S. Funding for Legal Aid Report*, the largest source of funds comes from a combination of federal (non-LSC) and state funds, followed by LSC funds, state appropriations, foundation and corporation grants, and the Interest on Lawyers Trust Accounts (IOLTA) and others. See ABArray, *U.S. Funding for Legal Aid*, Tableau Pub., <https://public.tableau.com/app/profile/abarray/viz/ABArrayNationalData/NationalLegalAidFunding>.
- <sup>62</sup> The LSC-funded programs are part of a larger network of legal services programs that includes other legal aid, social service, and pro bono programs, as well as programs affiliated with law schools and courts, that do not receive LSC funds.
- <sup>63</sup> See Legal Servs. Corp., *LSC By the Numbers 2021: The Data Underlying Legal Aid Programs 6* (2022), <https://lsc-live.app.box.com/s/e0ejxcp3lp4msvp77mvrzy9w0z354tf7/>.
- <sup>64</sup> See generally Brennan Center for Justice, *A Holistic Approach to Legal Advocacy* (Sept 7, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/holistic-approach-legal-advocacy>.
- <sup>65</sup> See Taxpayer First Act, Pub. L. No. 116-25, § 1402, 133 Stat. 981, 997 (2019).
- <sup>66</sup> See Executive Office for Immigration Review, *List of Pro Bono Legal Service Providers*, <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>.
- <sup>67</sup> *Protection & Advocacy Systems*, Admin. for Cmty. Living (July 6, 2023), <https://acl.gov/programs/pa-programs>.
- <sup>68</sup> *Fair Housing Initiatives Program (FHIP)*, U.S. Dept’ of Hous. & Urb. Dev., [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHIP](https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHIP).
- <sup>69</sup> Overseen by the Department of Interior, Bureau of Indian Affairs (BIA), Courts of Indian Offences (CFR Courts) operate where Tribes retain jurisdiction over American Indians that is exclusive of state jurisdiction, but where Tribal courts have not been established to fully exercise that jurisdiction. The CFR Court is a trial court where parties present their cases before a Magistrate Judge appointed by BIA. See 25 C.F.R Part 11.
- <sup>70</sup> See George M. Cohen, *Draft Report to the Administrative Conference of the U.S.: Regulation of Representatives in Agency Proceedings* (2021), at 10, <https://www.acus.gov/sites/default/files/documents/Cohen%20Revised%20Draft%20Report%2010-26-21.pdf>.
- <sup>71</sup> The following LAIR member agencies noted that they have administrative programs where individuals are permitted to be represented or otherwise assisted by nonlawyers as well as lawyers: Department of Homeland Security, Department of Labor, Department of Transportation, Department of Education, Equal Employment Opportunity Commission, Department of Justice, Department of Health and Human Services, Department of State, Department of Treasury, Department of Agriculture, Department of Veterans Affairs, Department of the Interior, Social Security Administration, the U.S. Agency for International Development, Environmental Protection Agency.
- <sup>72</sup> Some states have embarked on efforts to license nonlawyers to provide legal representation in certain types of cases to broaden the pool of individuals who can provide legal assistance or representation to otherwise unrepresented individuals. See generally Michael Houlberg & Natalie Anne Knowlton, *Inst. for the Advancement of the Am. Legal Sys., Allied Legal Professionals: A National Framework for Program Growth* (2023), <https://iaals.du.edu/publications/allied-legal-professionals-national-framework-program-growth>; Michael Houlberg & Janet Drobinske, *Inst. for the Advancement of the Am. Legal Sys., the Landscape of Allied Legal Professional Programs in the United States* (2022), [https://iaals.du.edu/sites/default/files/documents/publications/landscape\\_allied\\_legal\\_professionals.pdf](https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf).

With the expansion of nonlawyer services, there is a related concern for consumer harm and predatory actors — the risk of unscrupulous individuals making false claims about their abilities and irresponsibly serving the client’s interest. In the federal sphere, agencies have responded to fraudulent or predatory actions by legal service providers (both lawyers and nonlawyers). The examples include the Federal Trade Commission’s enforcement actions and outreach campaigns against fraudulent notaries, and the Department of Veterans Affairs takes actions to protect Veterans and claimants from predatory companies targeting them or their potential benefits. See Kati Daffan, *Notarios Are No Help with Immigration*, Fed. Trade Comm’n (Sept. 26, 2019), <https://consumer.ftc.gov/consumer-alerts/2019/09/notarios-are-no-help-immigration>; Emily Wu, *No New Immigration Relief Yet*, Fed. Trade Comm’n (Feb. 8, 2021), <https://consumer.ftc.gov/consumer-alerts/2021/02/no-new-immigration-relief-yet>; Accreditation, Discipline, & Fees Program, U.S. Dep’t of Veterans Affs. (Mar. 22, 2023), <https://www.va.gov/ogc/accreditation.asp>; VA Fights Back Against Predatory Claims-Assistance Practices, U.S. Dep’t of Veterans Affs. (Mar. 4, 2021, 3:17 PM), <https://news.va.gov/press-room/va-fights-back-against-predatory-claims-assistance-practices/>.

For a discussion on addressing potential public harm and consumer protection concerns relating to nonlawyer assistance, see generally Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. C.R. & C.L. 283 (2020), <https://law.stanford.edu/publications/legal-advice-from-nonlawyers-consumer-demand-provider-quality-and-public-harms/>.

<sup>73</sup> 5 U.S.C. § 555(b).

<sup>74</sup> See Recommendations of the Administrative Conference of the United States: Nonlawyer Assistance and Representation (Recommendation No. 86-1), 51 Fed. Reg. 25641, 25641-42 (July 16, 1986), <https://www.acus.gov/recommendation/nonlawyer-assistance-and-representation>; see also Cohen, *supra* note 70, at 8.

<sup>75</sup> *Id.*

<sup>76</sup> Representation of VA claimants is governed under 38 U.S.C. §§ 5901-5905, *Representation of Department of Veterans Affairs Claimants; Recognition of Organizations, Accredited Representatives, Attorneys, Agents; Rules of Practice and Information Concerning Fees*. Nonlawyer representatives include agents, representatives of veterans' service organizations (VSOs), and specially authorized persons. Agents, like attorneys, are permitted to charge fees. Representatives of VSOs and specially authorized persons are not permitted to charge fees. VA-accredited attorneys or agents may only charge reasonable fees for services provided after a notice of disagreement has been filed with respect to a decision on a claim, or, for claims under the modernized review system, after issuance of notice of an initial decision on the claim. 38 U.S.C. § 5904(c)(1); 38 C.F.R. § 14.636(c) and (e).

<sup>77</sup> The VA maintains a public list of attorneys, claim agents, VSO (Veterans Service Organizations) Representatives on its website. *Accreditation Search*, U.S. Dep't of Veterans Affs., <https://www.va.gov/ogc/apps/accreditation/index.asp> (last visited Oct. 4, 2023).

<sup>78</sup> Denis McDonough, *More Benefits Claims Support Available to Native American Veterans*, U.S. Dep't of Veterans Affs. (June 27, 2022), <https://news.va.gov/105123/more-benefits-claims-support-available-to-native-american-veterans/>.

<sup>79</sup> *Enrolled Agent Information*, Internal Revenue Service, <https://www.irs.gov/tax-professionals/enrolled-agents/enrolled-agent-information>. The practice before IRS is governed by Title 31 of the Code of Federal Regulations, Subtitle A, Part 10.

<sup>80</sup> IRS maintains a public listing of active enrolled agents on its website: <https://www.irs.gov/tax-professionals/enrolled-agents/active-enrolled-agents-and-the-freedom-of-information-act>.

<sup>81</sup> Taxpayer Advoc. Serv., *Low Income Taxpayer Clinics (LITC)*, Internal Revenue Serv., <https://www.taxpayeradvocate.irs.gov/about-us/low-income-taxpayer-clinics-litc/> (last visited Oct. 4, 2023).

<sup>82</sup> Exec. Off. for Immigr. Rev., *Recognition & Accreditation (R&A) Program*, U.S. Dep't of Just. (Apr. 14, 2021), <https://www.justice.gov/eoir/recognition-and-accreditation-program>. EOIR maintains a public list of accredited representatives on its website: <https://www.justice.gov/eoir/recognition-accreditation-roster-reports>.

<sup>83</sup> For more information about the Friend of the Court program, see EOIR Director's Memo 22-06, *Friend of the Court* issued on May 5, 2022, <https://www.justice.gov/eoir/page/file/1503696/download>.

<sup>84</sup> In a 2022 study of the Social Security Disability program, researchers found that "legal representation in the initial stage leads to earlier disability awards to individuals who would otherwise be awarded benefits only on appeal. Furthermore, by securing earlier awards and discouraging unsupported appeals, representation reduces total case processing time by nearly one year." Hilary W. Hoynes et al., *Legal Representation in Disability Claims* (Nat'l Bureau of Econ. Rsch., Working Paper No. 29871, 2022), <https://www.nber.org/papers/w29871>.

<sup>85</sup> Bureau of Just. Assistance, *Tribal Civil and Criminal Legal Assistance (TCCLA) Program*, Off. of Just. Programs (Mar. 14, 2023), <https://bja.ojp.gov/program/tribal-civil-and-criminal-legal-assistance-tccla-program/overview>.

<sup>86</sup> See Carole S. Houk et al., *Executive Summary*, in *A Reappraisal – The Nature and Value of Ombudsmen in Federal Agencies 3* (2016) (report to the Administrative Conference of the U.S.), <https://www.acus.gov/projects/use-ombuds-federal-agencies>. at 6-7, 10 ("There is no definitive typology of federal ombuds that work in a precise way for all ombuds. Attempts to differentiate ombuds offices . . . all lead to finding many ombuds offices of mixed characteristics which defy easy categorization.").

<sup>87</sup> Herd et al., *supra* note 20, at 42-43; see also Houk et al., *supra* note 86, at 25-26.



- <sup>88</sup> See Houk et al., *supra* note 86, at 146 (providing examples of how the Taxpayer Advocate Service provides case advocacy).
- <sup>89</sup> See Taxpayer Advoc. Serv., *About Us*, Internal Revenue Serv., <https://www.taxpayeradvocate.irs.gov/about-us/> (last visited Oct. 19, 2023); Taxpayer Advocate Serv., *Can TAS Help Me With My Tax Issue?*, Internal Revenue Serv., <https://www.taxpayeradvocate.irs.gov/can-tas-help-me-with-my-tax-issue/> (last visited Oct. 19, 2023).
- <sup>90</sup> *The Taxpayer Advocate Service Is Your Voice at the IRS*, Internal Revenue Serv. (Feb. 17, 2023), <https://www.irs.gov/advocate/the-taxpayer-advocate-service-is-your-voice-at-the-irs>.
- <sup>91</sup> See Taxpayer Advocate Serv., *Get Help*, Internal Revenue Serv., <https://www.taxpayeradvocate.irs.gov/get-help/> (last visited Oct. 19, 2023); Taxpayer Advoc. Serv., *Taxpayer Resources*, Internal Revenue Serv., <https://www.taxpayeradvocate.irs.gov/taxpayer-resources/> (last visited Oct. 19, 2023).
- <sup>92</sup> See *Systemic Advocacy Management System (SAMS)*, Internal Revenue Serv. (Dec. 19, 2022), <https://www.irs.gov/advocate/systemic-advocacy-management-system-sams>.
- <sup>93</sup> See Taxpayer Advocate Serv., *2022 Annual Report to Congress 210-16 (2022)*, <https://www.taxpayeradvocate.irs.gov/reports/2022-annual-report-to-congress/full-report/>.
- <sup>94</sup> See *If You Have a Complaint About Your Federal Student Aid, Contact the Federal Ombudsman Group as a Last Resort*, Fed. Student Aid, <https://studentaid.gov/feedback-ombudsman/disputes/prepare> (last visited Oct. 20, 2023).
- <sup>95</sup> See Department of Homeland Security, CIS Ombudsman, “How to Submit a Case Assistance Request,” at <https://www.dhs.gov/case-assistance>.
- <sup>96</sup> Restoring the Department of Justice’s Access-to-Justice Function, *supra* note 1, at 27794 § 3(b)(iv).
- <sup>97</sup> See United Nations Dep’t of Econ & Soc. Affs., Div. for Sustainable Dev. Goals, *Goal 16*, United Nations, <https://sdgs.un.org/goals/goal16> (last visited Oct. 6, 2023).
- <sup>98</sup> Ctr. for Democracy, Hum. Rts. & Governance, U.S. Agency for Int’l Dev., *Rule of Law Policy: A Renewed Commitment to Justice, Rights, and Security for All 26* (Apr. 2023), <https://www.usaid.gov/sites/default/files/2023-04/USAID%20ROL%20Policy%20508%20230406.pdf>.
- <sup>99</sup> See *Championing People-Centered Justice in Ukraine*, Chemonics, <https://chemonics.com/projects/championing-people-centered-justice-in-ukraine/> (last visited Oct. 5, 2023).
- <sup>100</sup> Restoring the Department of Justice’s Access-to-Justice Function, *supra* note 1, at 27794. Also, LAIR’s annual report is to include “data from participating members on the deployment of Federal resources to foster [LAIR’s] mission.” *Id.* at 27795.
- <sup>101</sup> See generally Amy Widman, *The False Premise of State Administrative Adjudication*, 61 Harv. J. on Legis. (forthcoming 2023), <https://ssrn.com/abstract=4510586> [hereinafter *False Premise of State Administrative Adjudication*]; Anna E. Carpenter et al., *Studying the “New” Civil Judges*, 2018 Wis. L. Rev. 249 (2018), <https://wlr.law.wisc.edu/wp-content/uploads/sites/1263/2018/04/Carpenter-et-al-Final.pdf>; Colleen F. Shanahan, *The Keys to the Kingdom: Judges, Pre-Hearing Procedure, and Access to Justice*, 2018 Wis. L. Rev. 215 (2018), <https://wlr.law.wisc.edu/wp-content/uploads/sites/1263/2018/04/Shanahan-Final.pdf> (examining data from unemployment insurance appeals in the District of Columbia’s central administrative court, the Office of Administrative Hearings).
- For other relevant studies from approaches adjacent to the access to justice lens, see also Gillian Metzger & Kevin M. Stack, *Internal Administrative Law*, 115 Mich. L. Rev. 11239 (2017), <https://repository.law.umich.edu/mlr/vol115/iss8/1/>; Nicholas Bagley, *The Procedure Fetish*, 118 Mich. L. Rev. 345 (2019), <https://repository.law.umich.edu/mlr/vol118/iss3/2/> (offering structural views on access to justice values that also ripple through administrative law).
- <sup>102</sup> See generally Amy Widman, *Inclusive Agency Design*, 74 Admin. L. Rev. 23 (2021), [https://administrativelawreview.org/wp-content/uploads/sites/2/2022/03/74.1-Widman\\_Final.pdf](https://administrativelawreview.org/wp-content/uploads/sites/2/2022/03/74.1-Widman_Final.pdf).
- <sup>103</sup> See generally *False Premise of State Administrative Adjudication*, *supra* note 101.
- <sup>104</sup> In an adjacent field, scholars have studied and written on burden reduction in federal agency proceedings. See, e.g., Pamela Herd & Donald P. Moynihan, *Administrative Burden: Policymaking by Other Means* (2018).

<sup>105</sup> The questions in this LAIR agency data collection included:

- Whether individuals are permitted to be represented or otherwise assisted (including a phone helpline) by attorneys, non-attorneys, or both;
- Whether non-attorneys must be certified by the agency to represent or assist people in administrative proceedings (if so, please provide a link to any rules or policies governing the requirements and process for certification);
- Whether your agency has rules or policies governing the conduct of non-attorneys who represent or assist people in administrative proceedings (if so, please provide a link to the rules or policies);
- Whether those providing representation/assistance can receive payment;
- Whether you collect data on rates of representation by attorneys or non-attorneys among individuals seeking to access your program; and
- Link to a webpage, if any, that provides legal information and resources to parties and representatives on the process.

<sup>106</sup> The UN Sustainable Development Goal 16.3 states: “promote the rule of law at the national and international levels and ensure equal access to justice for all.” The current indicators are:

- 16.3.1 Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms.
- 16.3.2 Unsentenced detainees as a proportion of overall prison population.
- 16.3.3 Proportion of the population who have experienced a dispute in the past two years and who accessed a formal or informal dispute resolution mechanism, by type of mechanism.

See UN Dep’t of Econ. & Soc. Affs., Div. for Sustainable Dev. Goals, *SDG 16 Indicators*, United Nations, <https://www.sdg16hub.org/landing-page/sdg-16-indicators> (last visited Oct. 3, 2023).

<sup>107</sup> See Award Abstract # 2228588: *CIVIC-PG Track B: Bridging the Rural Justice Gap: Innovating & Scaling Up Civil Access to Justice in Alaska*, Nat’l Sci. Found. (Apr. 28, 2023), [https://www.nsf.gov/awardsearch/showAward?AWD\\_ID=2228588](https://www.nsf.gov/awardsearch/showAward?AWD_ID=2228588).

<sup>108</sup> See Award Abstract # 2341716: *Conference: Access to Justice Research as a Tool for Advancing Federal Priorities*, Nat’l Sci. Found. (Aug. 14, 2023), [https://www.nsf.gov/awardsearch/showAward?AWD\\_ID=2341716](https://www.nsf.gov/awardsearch/showAward?AWD_ID=2341716).

<sup>109</sup> Restoring the Department of Justice’s Access-to-Justice Function, *supra* note 1.

<sup>110</sup> See, e.g., 2 C.F.R. § 200.435 (outlining limitations for using federal funds to pay legal fees when the Federal, state, local, or foreign government has commenced a criminal, civil, or administrative suit against the non-Federal entity seeking the funds).

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