



OOD  
PM 25-15  
Effective: January 31, 2025

To: All of EOIR  
From: Sirce E. Owen, Acting Director  
Date: January 31, 2025

## OFFICE OF LEGAL ACCESS PROGRAMS

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PURPOSE:	Clarify questions regarding EOIR's Office of Legal Access Programs
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	None

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Multiple questions about the status and function of EOIR's Office of Legal Access Programs (OLAP) have arisen in recent years. This Policy Memorandum (PM) addresses those questions.

Two of OLAP's principal functions, administering EOIR's various legal orientation programs and facilitating *pro bono* legal services, are assigned by regulation to the Office of Policy (OP). *See* 8 C.F.R. § 1003.0(e)(1). Its third principal function, administration of EOIR's recognition and accreditation (R&A) program is also assigned by regulation to OP. *See* 8 C.F.R. §§ 1292.11(a), 1292.12(a). In turn, OP delegated responsibility for these programs to OLAP after OLAP was placed under the auspices of OP in 2019. *See* Organization of the Executive Office for Immigration Review, 84 Fed. Reg. 44537 (Aug. 26, 2019).<sup>1</sup> Because OLAP was previously located within the EOIR Office of the Director (OOD), before making the change, EOIR complied with the procedures in 28 C.F.R. § 0.190(a) regarding changes to organizational units within the Department of Justice (DOJ).

In July 2021, all programs and staff in OLAP, except for those supporting the R&A program, were moved to OOD in contravention of 8 C.F.R. § 1003.0(e)(1). No rulemaking was undertaken to effectuate the move, and EOIR has no record that EOIR leadership at the time complied with the requirements of 28 C.F.R. § 0.190(a). Further, because authority cannot be delegated upward and OOD supervises OP, that move vitiated the delegations of authority from OP to OLAP.

In short, the move of most of OLAP to OOD in July 2021 appears to have been invalid, calling into serious question the validity of any subsequent action taken by OLAP until it was moved back to OP in February 2024. Consequently, if challenged, EOIR may not be able to recommend

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<sup>1</sup> The interim final rule moving OLAP to OP was subsequently finalized on November 3, 2020. *See* Organization of the Executive Office for Immigration Review, 85 Fed. Reg. 69465 (Nov. 3, 2020).

defending any action taken by OLAP while it resided in OOD between July 2021 and February 2024.<sup>2</sup>

Although OLAP administers multiple programs under the rubric of “legal orientation programs,” the most salient one is commonly referred to as the general Legal Orientation Program (LOP). The general LOP provides information to detained aliens ostensibly to assist them in determining their options in immigration proceedings and is alleged to make those proceedings more efficient and to reduce detention time.

However, EOIR published a study in September 2018 showing that the general LOP does not make immigration proceedings more expeditious; to the contrary, it increases the length of proceedings and the length of time in detention, which, in turn, increases costs to the federal government.<sup>3</sup> Consequently, EOIR publicly classified the general LOP as a wasteful program in December 2020. See Executive Office for Immigration Review; Fee Review, 85 Fed. Reg. 82750, 82754 (Dec. 18, 2020); accord 5 C.F.R. § 2635.101(b)(11) (requiring federal employees to “disclose waste, fraud, abuse, and corruption”); 28 C.F.R. § 0.29b (requiring DOJ employees to disclose waste in government programs). EOIR also conducted a follow-up study of the general LOP in 2021 (2021 Study), which reaffirmed its previous review that the general LOP was a wasteful program because it lengthened detention times and increased net costs to the government by a considerable margin; however, the EOIR leadership at the time refused to publicly release that study and successfully hid it from relevant stakeholders. Subsequently, EOIR continued to seek additional funding for legal orientation programs and repeatedly failed to disclose to DOJ or to Congress that it knew that the general LOP was not an effective or economical program.

The behavior of EOIR regarding the 2021 Study was inappropriate and significantly undermined EOIR’s credibility and integrity. EOIR is committed to transparency, scientifically-sound and data-based decision-making, and the reform or elimination of wasteful programs consistent with its ethical duties. EOIR, including OLAP, will do better.

This PM is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing herein should be construed as mandating a particular outcome in any specific case. Nothing in this PM limits an adjudicator’s independent judgment and discretion in adjudicating cases or an adjudicator’s authority under applicable law.

Please contact your supervisor if you have any questions.

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<sup>2</sup> Because the R&A program remained in OP, consistent with applicable regulations, throughout this period, there is no question regarding the validity of any R&A decision, and if challenged, EOIR will defend any R&A decisions issued during this period if otherwise appropriate.

<sup>3</sup> See LOP Cohort Analysis, <https://www.justice.gov/eoir/file/1091801/dl?inline=>. The 2018 Study, which was quantitative, also largely debunked a previous 2017 Legal Case Study which addressed, *inter alia*, the general LOP from a qualitative analytic perspective. The 2017 Legal Case Study was methodologically flawed due to a selection bias issue regarding its interviews with EOIR personnel and a failure to control for the biases or valences of its non-EOIR subjects. In light of these flaws, EOIR cannot necessarily validate any of the conclusions of the 2017 Legal Case Study.