

IMMIGRANT RIGHTS TEACH-IN & KNOW YOUR RIGHTS PRESENTATION

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The co-sponsoring organizations have provided additional resources, which are available here:

**[http://www.law.nyu.edu/immigrantrightsclinic/
community-resources](http://www.law.nyu.edu/immigrantrightsclinic/community-resources)**

Recordings of today's trainings will also be posted on this website after the teach-in.

IMMIGRANT RIGHTS TEACH-IN & KNOW YOUR RIGHTS PRESENTATION

NYU Law School
40 Washington Square South
New York, NY 10012

November 28, 2016

Welcome & Introduction

6:00 - 6:05 pm	Welcome Jojo Annobil, Immigrant Justice Corps Alina Das, NYU Immigrant Rights Clinic
6:05 - 6:10 pm	An Overview of the Immigration Enforcement System Abraham Paulos, Families for Freedom Alina Das, NYU Immigrant Rights Clinic

Know Your Rights

6:10 – 6:20 pm	Know Your Rights: Home and Community Immigration Raids Genia Blaser, Immigrant Defense Project
6:20 – 6:30 pm	Know Your Rights: Detention and Deportation Proceedings Talia Peleg, Brooklyn Defender Services Luis Mancheno, Cardozo Immigrant Justice Clinic
6:30 - 6:40 pm	Know Your Rights: Special Concerns for Muslim Communities Christina Elhaddad, Arab American Association of New York Nancy Morawetz, NYU Immigrant Rights Clinic
6:40 – 6:55 pm	Questions & Answers
6:55 – 7:00 pm	Break

How To Prepare

7:00 – 7:10 pm	How We All Should Prepare: Safety Planning and Finding Good Legal Representation Maryann Tharappel, Catholic Charities Community Services of New York Hallam Tuck, New York Immigration Coalition
7:10 – 7:20 pm	How to Prepare If You Have A Criminal Record Nyasa Hickey, Brooklyn Defender Services Genia Blaser, Immigrant Defense Project
7:20 – 7:30 pm	How to Prepare If You Have DACA Danny Alicea, City Bar Justice Center Stephanie Park, MinKwon Center for Community Action Tania Mattos, UnLocal, Inc.
7:30 – 7:40 pm	How to Prepare If You Are Undocumented Jojo Annobil, Immigrant Justice Corps Hasan Shafiqullah, Legal Aid Society (New York)
7:40 – 7:50 pm	How to Prepare if You Have or Want a Student or Employment Visa Dominic Kong, Claudia Slovinsky & Associates, PLLC Jennifer Durkin, Durkin & Puri, LLP; AILA NY
7:50 – 8:00 pm	How to Prepare if You Have A Fear of Persecution; Special Issues for Children Annie Chen, Center on Immigration and Justice, Vera Institute on Justice Victoria Neilson, Immigrant Justice Corps Claire R. Thomas, New York Law School Safe Passages Project
8:00 – 8:10 pm	How to Prepare if You Are LGBTQ or HIV Positive Pamela Denzer, Immigration Equality Cristina Velez, HIV Law Project
8:10 – 8:20 pm	Break [pizza will be served in Rooms 204, 206, 210, 214]

Break Outs	
8:20 – 8:50 pm	Questions & Answers [Tishman]
8:20 – 8:50 pm	New York Local and State Strategies [VH 210] Facilitators: Al Saint Jean, Black Alliance for Just Immigration (BAJI); Ruthie Epstein, New York Civil Liberties Union; Ravi Ragbir, New Sanctuary Coalition
8:20 – 8:50 pm	National Strategies [VH 204] Facilitators: Annie Chen, Center on Immigration and Justice, Vera Institute on Justice; Nancy Morawetz, NYU Immigrant Rights Clinic; Claire R. Thomas, New York Law School Safe Passages Project
Closing & Next Steps	
8:50 – 9:00 pm	Closing Remarks Jojo Annobil, Immigrant Justice Corps Alina Das, NYU Immigrant Rights Clinic
9:00 – 10:00 pm	Optional Organizing & Planning Spaces For Next Steps

IMMIGRANT RIGHTS TEACH-IN & KNOW YOUR RIGHTS PRESENTATION

Acknowledgements

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A special thank you to the Immigrant Justice Corps, NYU Immigrant Rights Clinic, and our co-sponsoring organizations:

American Immigration Lawyers Association - NY Chapter	Legal Aid Society (New York)
Arab American Association of New York	Make the Road New York
Atlas-DIY	Metropolitan Black Bar Association
Black Alliance for Just Immigration	MinKwon Center for Community Action
Brooklyn Defender Services	New Sanctuary Coalition of New York
Cardozo School of Law Kathryn O. Greenberg	New York Civil Liberties Union
Immigration Justice Clinic	New York Immigration Coalition
Catholic Charities Community Services of New York	New York State Youth Leadership Council
Catholic Migration Services	NYU International Refugee Assistance Project
Center for Appellate Litigation	NYU Latino Law Students Association
Center on Immigration and Justice, Vera Institute of Justice	NYU Latinx Rights Scholars Program
Community Development Project, Urban Justice Center	NYU School of Law Chapter of the National Lawyers Guild
Empire Justice Center	NYU South Asian Law Students Association
Families for Freedom	NYU Women of Color Collective
Immigrant Defense Project	Queens Law Associates
Immigrant Rights Clinic at Fordham	Queer Detainee Empowerment Project
University School of Law	Safe Passage Project
Immigration Equality	Safe Passage Project Clinic at New York Law School
Latino Justice PRLDEF	Sauti Yetu
Law@theMargins	The Bronx Defenders
	The Door's Legal Services Center
	UnLocal, Inc.
	Volunteers of Legal Service

**Thank you to all of our speakers,
and thank you to NYU Law School for supporting this event.**

HOTLINES & UPCOMING LEGAL CLINICS

Immigration Legal Referral Hotlines

- New York State Office for New Americans Hotline (to be connected with free or low-fee legal services): **1-800-566-7636**
- New York City Action NYC (for general information and referrals to free legal services): **1-800-354-0365**
- Immigrant Defense Project Criminal-Immigration Helpline (for advice about the immigration consequences of criminal charges or convictions): **212-725-6422**

Upcoming Legal Clinics

- **Legal Aid Society (New York)** walk-in clinics will take place on:
 - **December 6**, 6:00 - 8:00 pm at IS 218, The Dual Language School, 1220 Gerard Ave, Bronx, NY 10452
 - **December 7**, 6:00 - 8:00 pm at Fort Washington Collegiate Church, 729 W 181st St, New York, NY 10033
- **Ongoing Legal Clinics for individuals with DACA:**
 - **Make the Road NY** is holding DACA Workshops **every Wednesday at 4:00 pm** at their Jackson Heights office at 92-10 Roosevelt Avenue Jackson Heights, New York 11372
 - **MinKwon Center for Community Action** is continuing to process DACA renewal applications at 136-19 41st Avenue, FL3, Flushing, NY 11355. Call or email Stephanie Park at 718-460-5600 x 508 or stephanie.park@minkwon.org for an appointment
- **Youth Rise Up** training for high school youth (organized by **New York State Youth Leadership Council**) at St. Francis Church, 135 West 31st Street, New York, NY 10001
When: December 3, 9:30 am - 3:00 pm
 - Facebook event page:
<https://www.facebook.com/events/893899357377043/>
 - Attorney volunteer link (to conduct legal intakes):
https://docs.google.com/a/nysylc.org/forms/d/1wjtTVQ7bf2kTS1e9NOpoFr0xggewcsKKzLVhIqTpECM/viewform?edit_requested=true

- **Emergency Advance Parole Clinic** for DACA recipients (organized by **New York State Youth Leadership Council**) at Kirkland & Ellis, 601 Lexington Ave, New York, NY 10022
When: December 4, 10:00 am to 5:00 pm
 - For more information or if you are a law student, paralegal, or attorney interested in volunteering at the event, please contact Tania Mattos at tania@unlocal.org
- **Information session on the future of DACA** (organized by **UnLocal, Inc.**) at 401 Broadway, Floor 22, New York, NY 10013
When: December 6, 6:30pm - 8:30 pm
 - Sign up page: <https://www.eventbrite.com/e/the-future-of-daca-tickets-29451092009>
 - Facebook Invite: <https://www.facebook.com/events/656180621208598/>
- Information Session for Asian Immigrant Community at **MinKwon Center for Community Action**, hosted by St. George's Church, 135-32 38th Ave in Flushing
When: December 6, 6:30 - 8:30 pm
 - Short Presentations on:
 - General/federal outlook on changes to immigration enforcement
 - KYRs when interacting with ICE
 - DACA FAQs
 - NYS/NYC specific resources
 - Undocumented Workers' Rights
 - Interpretation in Korean
- **Training for Protest Monitors** who want to work with **New York Civil Liberties Union (NYCLU)** at NYCLU, 125 Broad Street, 19th Floor, New York, NY
When: December 6, 6:30 - 7:30 pm
 - RSVP: rogno@nyclu.org (required to enter building)
- **Family Resource Day** sponsored by **New York City Council** at Pathways to Graduation, Jeffrey C. Tenzer, 198 Forsyth Street, New York, NY 10002
When: December 17, 9:00 am - 2:00 pm
 - Free immigration legal consultations
 - Know Your Rights workshop
 - Health, financial, and adult education information
 - Information on IDNYC (NYC Municipal ID)

An Overview of the Immigration Enforcement System

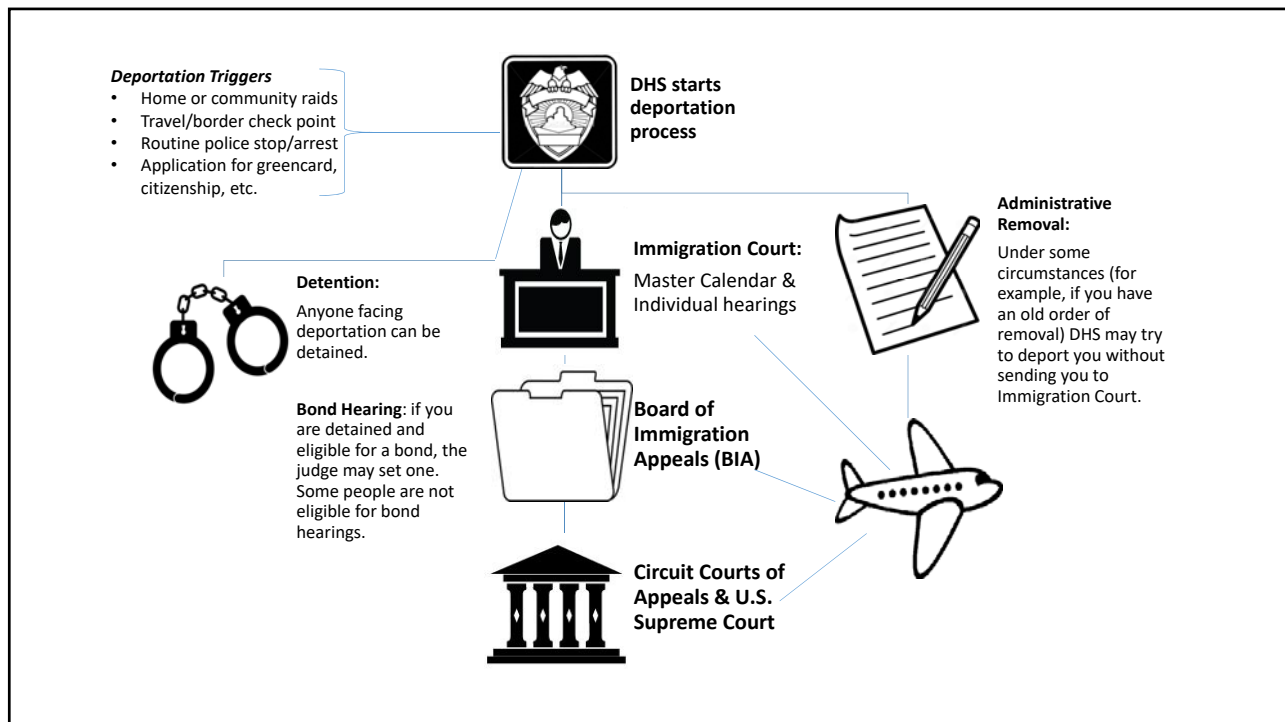
Abraham Paulos, Families for Freedom
Alina Das, NYU Immigrant Rights Clinic



Overview of Immigration Enforcement

Department of Homeland Security (DHS)			Other Federal and Local Enforcement Agencies
Customs & Border Patrol (CBP)	U.S. Citizenship & Immigration Services (USCIS)	Immigration & Customs Enforcement (ICE)	
Border patrol and customs at ports of entry (airport, seaport, etc.). Refers deportation cases to ICE.	Processes applications for adjustment of status (green cards), naturalization, etc. Refers deportation cases to ICE.	Carries out enforcement actions, issues detainers ("holds") and Notices to Appear (NTA). Decides to detain or release immigrants from detention.	Other federal and local agents often coordinate with ICE (for example from Social Security, FBI, U.S. Marshals, local police, probation, parole, and others).

- Immigrants with past convictions and undocumented immigrants are most at risk of deportation.
- Immigrants facing deportation may be detained anywhere in the U.S.
- There is no recognized right to counsel if you are facing deportation.



Know Your Rights: Home and Community Immigration Raids

Genia Blaser, Immigrant Defense Project



KNOW YOUR RIGHTS!

ENCOUNTERS WITH ICE* AT YOUR HOME AND IN THE COMMUNITY

ICE = Immigration and Customs Enforcement (“Immigration”)



KYR: IF I AM ARRESTED BY ICE

- Remain silent. **Do not LIE.**
- Do not answer questions about where you were born or your immigration or criminal history.
- Do **not** give ICE your documents (passport, consular ID)
- Do not sign anything. Keep whatever papers you are given by ICE. They will have important information to give to your family.



To report a raid in NYC, call IDP's hotline: 212-725-6422

KYR: IF ICE IS OUTSIDE THE DOOR

- Do not open the door.
- Ask to see ID and for a warrant to be slipped under the door
 - ICE pretends to be police
 - No warrant = don't have to let them in
 - Take a photo of any warrant slipped under the door
- Say **"I do not give consent for you to enter my home"** and ask them to leave
- Do not lie to them or give them information about where your loved one is
 - Say **"I don't want to talk to you"** and ask them to leave their contact information



To report a raid in NYC, call IDP's hotline: 212-725-6422

KYR: IF ICE IS INSIDE THE HOME

- Say: **"I do not consent to you being in my home. Please leave."**
- If they start to search the home: **"I do not consent to your search."**
- Do not lie or share where a loved one is. Do not give out their phone number.
 - Ask for ICE to leave contact information.
- Do not give documents (passports, consular IDs)
- **Do not interrupt an arrest.**
 - Tell ICE if you or your loved one has *medical issues* or needs *childcare*.
- Write down what happened. It could help the case.



To report a raid in NYC, call IDP's hotline: 212-725-6422

KYR: ICE IN THE COMMUNITY

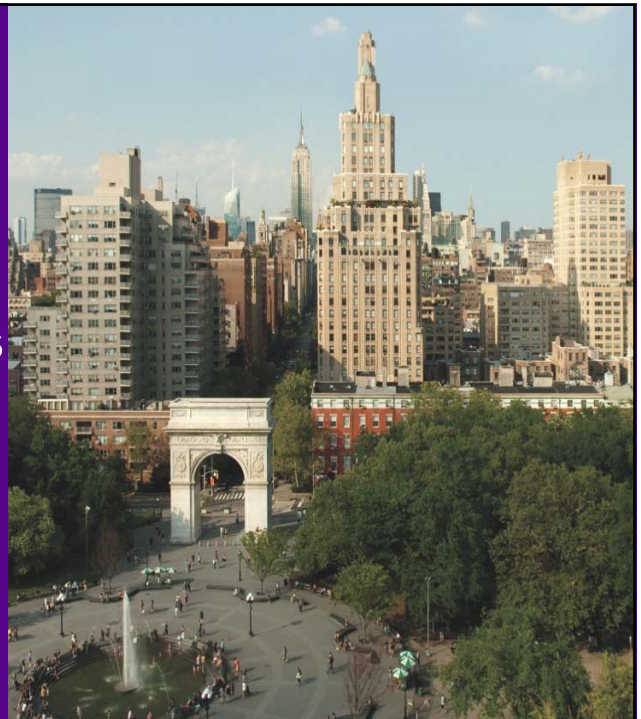
- Ask “**Am I free to go?**”
 - If yes and you can, walk away
 - If no, “**I want to use my right to remain silent. I want to speak to a lawyer.**”
- If they start to search you or your bag: “**I do not consent to this search.**”
 - Do not lie or give false documents.
- Do not answer questions about your place of birth, criminal or immigration history.



To report a raid in NYC, call IDP's hotline: 212-725-6422

Know Your Rights: Detention and Deportation Proceedings

Talia Peleg, Brooklyn Defender Services
Luis Mancheno, Cardozo Immigrant Justice Clinic





What should I do if I am detained by ICE?



- ICE can choose to detain you even if you haven't been convicted of a criminal offense.
- Most people who are detained will have the right to see a judge
- You may have to wait about 1 month before you see an immigration judge in a courtroom.
- **During this time, it is very important to try to get in touch with family members or friends so they can start looking for a lawyer.**
- Also, it is important that your family members to start getting together any documents related to your immigration and criminal history, if any.

What should I do if I am detained by ICE?

- Anyone can be detained, but usually ICE chooses to detain people with criminal convictions.
- Depending where you are in the country and depending on your criminal history you may have the right to a bond hearing and/or may need to wait until you have been detained six months before you get a bond hearing. Some people may never have a right to a bond hearing and have to fight the case while detained.

Who can be detained and who can be released?

- It is a hearing in front of an immigration judge where they determine whether to release you
- The majority of immigration judges believe that they cannot release you on a bond of less than \$1500.
- During the bond hearing, the immigration judge determines if you would be a danger to the community if you are released, and if you would return to immigration court when you are ordered to appear.
- You can present evidence during the bond hearing on why you are not a danger to the community and the reasons why you will come back to immigration court.

What is a bond hearing?



**If you are granted bond and you pay, you
will be released to continue to fight your
case outside of ICE detention**

- Commonly known as deportation proceedings
- Conducted in front of an immigration judge
- You won't be deported immediately
- Immigration judge makes decision on whether to deport you or allow you to stay in the United States.
- Removal proceedings usually take a very long time

Removal Proceedings



Notice to Appear (NTA)

U.S. Department of Homeland Security **Notice to Appear**

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: _____ F2H #: _____ File No.: _____
 DOR: _____ Event No: _____

In the Matter of: _____ currently residing at: _____
 Respondent: _____
 (Number, street, city and ZIP code) (Area code and phone number)

☐ 1. You are an arriving alien.
☐ 2. You are an alien present in the United States who has not been admitted or paroled.
☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You arrived in the United States at or near SAN YSIDRO, CALIFORNIA, on or about August 1, 2009;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(5)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
☐ Section 215(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(d)(2) ☐ 8CFR 235.30(d)(3)(v)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
 1810 West Highway Suite 110 Birmingham AL 35210

on a date to be set at _____ at _____ to show why you should not be removed from the United States based on the charge(s) set forth above.
 (Date) (Time)

Signature and Title of Issuing Officer: _____
 Date: October 5, 2009 _____

 See reverse for important information Form I-862 (Rev. 08/01/07)

- It informs you that the US government intends to deport you.
- Has the allegations the US government is making on why they think you should be deported.
- It will usually have information about the date, time, and location of your first immigration court hearing.



Notice to Appear



- It is understandable you are scared
- You will not necessarily be deported during your first hearing as long as you come to court
- BUT you need to show up because immigration judge can deport you if you don't

You need to show up to your immigration hearing



Will I get a lawyer during my removal proceedings?

- You have the right to a lawyer BUT the government will NOT pay for it
- You can ask the immigration judge to give you time to find a lawyer, but YOU will need to pay for it.
- It is important to start looking for a lawyer as soon as you know you are in removal proceedings



Will I get a lawyer during my removal proceedings?

- If you are in detained removal proceedings in New York City and you are not able to pay for a lawyer, there is currently a program called NYIFUP that provides lawyers for detained immigrants facing deportation.



Good news for New Yorkers!

- Unfortunately, if you are in removal proceedings anywhere else in the country (with few exceptions) or in non-detained court in NYC, you will not have an attorney paid by the government.
- HOWEVER, don't despair. There are non-profit organizations that provide FREE legal services. You might be able to get the help of one of these organizations. Try to find one of these organizations as soon as possible if you know you are not able to pay for a lawyer.

No lawyer paid by the government anywhere else in the country



www.immigrationadvocates.org/nonprofit/legaldirectory/



How do I argue I shouldn't be deported?



- There are many factors that the immigration judge can consider when deciding whether or not to deport you.
- The law has allowed for you to have certain defenses against deportation.

How do I argue I shouldn't be deported?

Make sure you mention to the immigration judge or your lawyer



- You believe you are a US citizen
 - You are afraid of returning to your home country
 - You have family members in the US who have immigration status or are US citizens
 - You have lived in the US for a very long time and you have a family member(s) who would suffer extraordinarily if you are deported
-

- If the immigration judge orders you deported, you have the right to appeal his/her decision
- If the immigration judge orders you deported during one of your immigration hearings, and you want to appeal, you need to RESERVE your right to appeal
- If you reserve your right to appeal, you have 30 days to file a notice of appeal which states the reasons why you think the immigration judge made a mistake in your case and then you would have a chance to make arguments
- You cannot be deported while your case is pending before the Board of Immigration Appeals (BIA)

Your right to appeal

- Administrative proceedings or expedited removal proceedings apply to a smaller group of people and are conducted **WITHOUT** the opportunity to see an immigration judge.
- They are decided by an ICE officer
- If you in this situation and afraid of returning to your home country, you need to let ICE know. Tell every officer you see!
- You need to try to contact a lawyer as soon as possible and let you family members know about it.
- Time is of the essence in these cases!

What do I do I am put into administrative proceedings?



Don't despair!

- There are hundreds of attorneys, thousands of community members, and millions of Americans who are ready to defend you.
- Organize, organize!
- Be strong! We will win this battle too!











Know Your Rights: Special Concerns for Muslim Communities

Christina Elhaddad, Arab American Association of
New York
Nancy Morawetz, NYU Immigrant Rights Clinic



HARASSMENT/THREATS

BY MEMBERS OF THE PUBLIC	BY GOVERNMENT OFFICIALS (POLICE, FBI, etc.)
<ul style="list-style-type: none"> -  Report it. Call 911. - Civil rights organizations - Maintain accurate record of incident - The Accompany Project   	<ul style="list-style-type: none"> - Right to an attorney -  Different treatment because of religion - No warrant = No entry - Carry valid US immigration documents - Officer's name and badge number - Record incident, if possible - Civil rights organizations   

Targeting Muslims for enforcement



Reinstatement of “Special Registration” ?

- Targets nationals of certain countries
 - 24 of 25 countries in 2003 program were majority Muslim
- “call in” registration which can lead to deportation
 - 2003 program led to 14,000 deportations
- Special procedures when traveling
 - Requires travel through specific airports

Can Immigration Agencies Target Muslims?



Privacy
Act

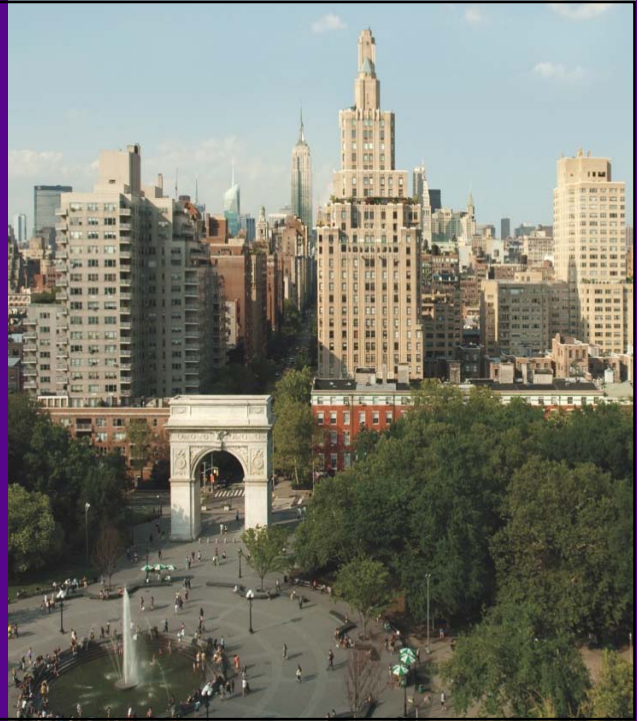
- The Constitution provides broad protection for freedom of religion
- But the Constitution also provides broad government power over immigration and immigrants
- The Privacy Act bars government records on how any individual exercises rights guaranteed by the First Amendment

2003 NSEERS approach: pretend that the targeting is based on nationality and not religion

But today NSEERS rationales do not hold (if they ever did).



Questions & Answers



Immigrant Rights Teach-In & Know Your Rights Presentation

Hosted By:
Immigrant Justice Corps &
NYU Immigrant Rights Clinic



How We All Should Prepare: Safety Planning and Finding Good Legal Representation

Maryann Tharappel, Catholic Charities Community
Services of New York
Hallam Tuck, New York Immigration Coalition



Rights Afforded to ALL!

- All people in the U.S., citizen and non-citizen alike, have certain rights under the U.S. Constitution and other laws.
- Right to Refuse Search: You have the right to refuse immigration or law enforcement to search your person, your car or your home.
- Right to Remain Silent: If you want to exercise this right, say so loud and proud!
- Right to an Attorney: You have the right to speak with an attorney before answering *any* questions and you do *not* have to sign anything you do not understand.
- As a non-U.S. citizen you have the right call the consulate of your home country. U.S. enforcement officials must allow you contact with your consulate.

Prepare And Be Aware

- Organize Your Documents
 - Identity & Personal Documents
 - Immigration/Criminal History
- Create a Safety Plan
 - List of important phone numbers
 - Financial security
 - Power of Attorney & Guardians

Talk to an Immigration Attorney!

If you live in NYC and are a low-income individual, you may be able to get free immigration legal representation

New York Immigrant Family Unity Project (NYIFUP): first public defender program in the country for detained immigrants facing deportation

Avoid Immigration Fraud

- To avoid scams and unscrupulous practitioners, get a trusted referral to a legal service provider.
- If you believe that you or someone you know has been the victim of fraud, report it! You can report anonymously!

To receive information on legal resources and report suspected cases of fraud, call the *New Americans Hotline*:
800-566-7636

To learn more about common scams targeting immigrants, and to access community materials, visit
www.protectingimmigrants.org

Keep Yourself Informed!

- ✧ If you need updates about immigration developments, want to report fraud, need general information about immigration laws and policies, or are looking for a referral to an immigration legal service provider, call the *New Americans Hotline* at **800-566-7636** (open Monday-Friday, 9 am – 8 pm; operators can answer calls in up to 200 languages; calls are anonymous and confidential).
- ✧ **For questions about criminal convictions, call the *Immigrant Defense Project Hotline* at **212-752-6422**.** You will have to leave a message with your number and they will call you back.

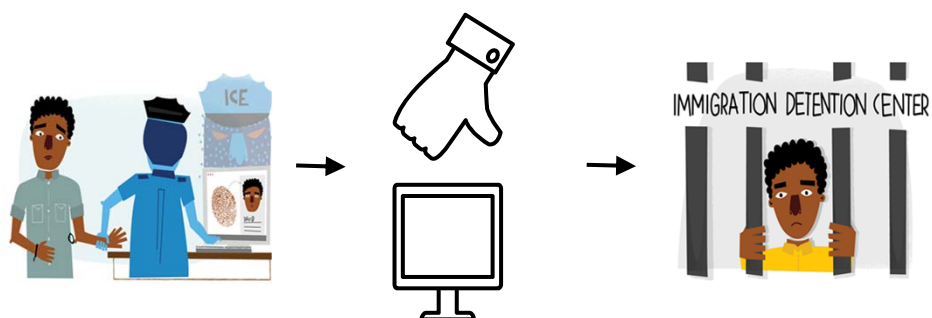
How to Prepare If You Have A Criminal Record

Nyasa Hickey, Brooklyn Defender Services
Genia Blaser, Immigrant Defense Project





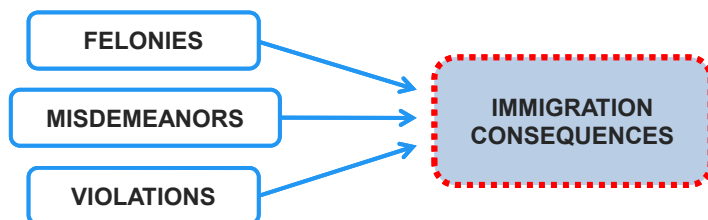
**A criminal *arrest* exposes non-citizens* to
detection by ICE and deportation proceedings**



* Anyone who is not a U.S. citizen can become vulnerable to deportation based on the outcome of a criminal case – this includes greencard holders (lawful permanent residents), asylees/refugees, and students!

**WHAT TYPES OF CRIMINAL COURT CONTACTS
TRIGGER IMMIGRATION CONSEQUENCES?**

**All levels of New York State criminal cases can cause
immigration consequences*, even *violations or sealed cases*!**



* “Immigration Consequences” = can put someone at risk of deportation



Does your criminal history put you at risk?

- Collect necessary documents to figure this out *before* submitting applications or traveling internationally
- Get a Certificate of Disposition for each arrest – this includes **any tickets** you may have received
 - You must get dispositions for all *dismissed and sealed cases!*
 - Go to Court Clerk's office, Monday – Friday 9am – 5pm
 - \$10/each disposition

New York County (Manhattan) 100 Centre Street, Room 134 New York, NY 10013	Bronx County 215 East 161st Street, 2 nd floor Bronx, NY 10451
Kings County (Brooklyn) 120 Schermerhorn Street, room 510 Brooklyn, NY 11210	Richmond County (Staten Island) 67 Targee Street, 1st floor Staten Island, NY 10304
Queens County 125-01 Queens Boulevard, Room G-78 Kew Gardens, New York 11415	

- Out of State Conviction? [Speak with a lawyer about how to get dispositions](#)



I have an open case and I have a free lawyer but I lost their card. How do I find them?

- The Legal Aid Society, 212-577-3300
- Bronx Defenders, 718-838-7878
- Brooklyn Defender Services, 718-254-0700
- New York County Defenders, 212-803-5100
- Neighborhood Defenders of Harlem, 212-876-5500
- Queens Law Associates, 718-261-3047
- 18B panel, 212-676-0066
- New York City general information, call 311

If you are not a US citizen, tell your lawyer! Any plea could affect your immigration status.



Final Takeaways!

- Have you ever been arrested, *ticketed* or appeared in criminal court? If so:
 - You must speak to an immigration lawyer before:
 - Travelling internationally
 - Applying for any immigration application – including citizenship or a greencard renewal
- **If you have been arrested or convicted of a crime or offense and are concerned about the immigration consequences:**

IDP hotline: 212-725-6422



How to Prepare If You Have DACA

Danny Alicea, City Bar Justice Center
Stephanie Park, MinKwon Center for Community Action
Tania Mattos, UnLocal, Inc.





QUESTIONS

ANSWER

What might happen to DACA after the administration changes?

No one knows

If I'm eligible for DACA but never applied, should I apply now?

No

If I have DACA but it will expire after Jan. 20, should I apply now to renew?

It depends on your case



WHAT SHOULD SOMEONE WITH DACA DO NOW TO PREPARE?

- ORGANIZE IMMIGRATION DOCUMENTS
- GET A CONSULTATION BY AN ATTORNEY OR A BIA ACCREDITED REPRESENTATIVE
- START THINKING ABOUT ABILITY TO LEGALLY WORK
- FINANCIAL PLANNING
- GET MEDICAL CHECK UPS
- IDENTIFICATION

WHAT OTHER TYPES OF RELIEF MIGHT A PERSON WITH DACA BE ELIGIBLE FOR?



- Special Immigrant Juvenile Status
- U Visas
- T Visa
- Adjustment of Status

What is Advance Parole?



Travel outside the U.S. with permission from immigration under the following:

- Humanitarian
- Work
- Education

IF YOU HAVE ANY QUESTIONS, YOU CAN CONTACT US AT:

Danny Alicea
dalicea@nycbar.org



Tania Mattos
tania@unlocal.org

Stephanie Park
stephanie.park@minkwon.org

THANK YOU

How to Prepare If You Are Undocumented

Jojo Annobil, Immigrant Justice Corps
Hasan Shafiqullah, Legal Aid Society (New York)



UNDOCUMENTED IMMIGRANTS

WHO ARE THEY?

- Non-citizens who enter with a temporary visa and overstay or violate the visa

Example: Visitors and students

- Non-citizens who cross the border or enter the US without papers or fake papers

HOW CAN THEY GET A GREEN CARD THROUGH A USC FAMILY

Can adjust status in the US if they have a US Citizen spouse, parent (if child under 21yo) or adult child 21yo or older.

Cannot adjust status in the US even if they have US Citizen or permanent resident family, but have to go abroad to process their papers. (There are limited exceptions)

Have to get a waiver before they travel abroad; otherwise cannot return for 3 or 10 years

Some things cannot be waived in advance (e.g., fraudulent entry)



Other Paths to Lawful Status

OTHER PATHS TO LAWFUL STATUS

- Asylum
- VAWA for domestic violence victims
- U visa for crime victims
- T visa for sex and labor trafficking
- Special Immigrant Juvenile Status
- Widow(er) death of a USC spouse
- Adjustment through an Employer

RISK FACTORS

- Criminal convictions
- Prior deportation order
- Fraud or misrepresentation
- Always consult with a reputable lawyer or legal service provider



ARE THE UNDOCUMENTED ELIGIBLE FOR HEALTHCARE OR UNEMPLOYMENT

HEALTH CARE

- Undocumented pregnant women can receive Medicaid
- DACA recipients qualify for Medicaid but not private insurance on NY State Health
- Undocumented who are low income can get emergency Medicaid
- HIV+ individuals qualify for the AIDS Drug Assistance Program (ADAP)
- Children's Health Insurance Plus (CHIP)

UNEMPLOYMENT INSURANCE

- Undocumented immigrants cannot collect unemployment insurance

How to Prepare If You Have or Want a Student or Employment Visa

Dominic Kong, Claudia Slovinsky & Associates, PLLC
Jennifer Durkin, Durkin & Puri, LLP; AILA NY



Student Visas: F and M

- **F-1 visa:** for foreign nationals who are enrolled full-time at an accredited college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program.
- **M-1 visa:** for students in vocational or other nonacademic programs, other than language training.



Student Visa Eligibility

To be eligible for either the F-1 visa or the M-1 visa, applicants must:

- (1) meet the admission requirements of the school;
- (2) be enrolled full time in a program or course of study that results in a degree, diploma, or certificate;
- (3) the school must be certified by the Student and Exchange Visitors Program (SEVIS) of Immigration & Customs Enforcement (ICE);
- (4) receive a Form I-20 from the academic or vocational program of the school;
- (5) must be proficient in English or be enrolled in courses leading to English proficiency;
- (6) have a foreign residence that they have no intent to abandon; and
- (7) show that they are able to support themselves during their stay in the U.S. without working here, as their opportunities for legal employment are limited.

To be able to change to F-1 nonimmigrant status in the U.S., applicants must be maintaining a valid nonimmigrant status in the U.S. A person who does not have a valid nonimmigrant status will not be able to apply to change to F-1 status in the U.S.

Optional Practical Training (OPT): An F-1 student may receive a total of 12 months of full-time practical training for work that is directly related to their field of study. Can receive OPT after each educational level (undergraduate, graduate, etc).



Common types of work-authorized nonimmigrant visas

E-3: Australian professional or special occupation workers

H-1B: Professional Workers

L-1: Intracompany Transferees (Executive, Managerial and Specialized Knowledge Workers)

O-1: Aliens of Extraordinary Ability

P: Performers and Athletes

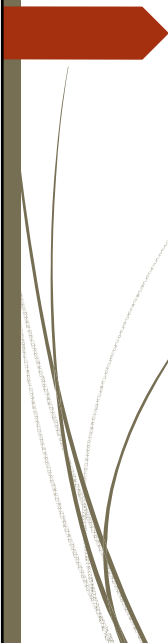
R-1: Religious Workers

TN: Treaty NAFTA Professionals



Changing from F-1 to H-1B

- H-1B visa: foreign national professional to work in a professional or specialty occupation in the U.S. Must have a bachelor's degree or the equivalent education, specialized training, and/or progressively responsible work experience. Degree must be related or closely related to the offered position/job. The position must meet one of the following criteria : (1) a bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position; (2) the degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree; (3) the employer normally requires a degree or its equivalent for the position; or (4) the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree. There are limited H-1B visa numbers available each year.
- New H-1B visa petition is filed during the first week of April with an employment start date of not earlier than October 1. F-1 status, including their 60 days grace period, must not end before April 1. If the H-1B petition filed with USCIS has been randomly selected for an H-1B visa number, a student's F-1 status and OPT employment authorization will receive an automatic extension, known as Cap-Gap Extension, to September 30.

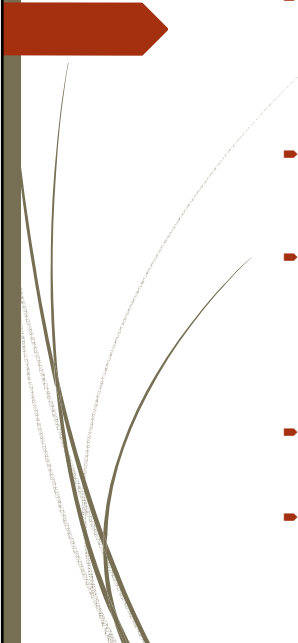
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- If the student's F-1 status, including the 60 days grace period, will expire before April 1, the student may need to apply for the H-1B visa with a U.S. Consulate after the H-1B petition has been approved, and then reenter the U.S. to be admitted on H-1B status.
 - An F-1 student filing for a change to H-1B status in the U.S. should not travel outside the U.S. while the H-1B petition is in process. Doing so will render the "change of status" request in the H-1B petition to be considered as abandoned. If the H-1B petition is approved, the student will need to apply for the H-1B visa with a U.S. Consulate overseas and reenter the U.S. with the H-1B visa to be admitted on H-1B status.
 - Students who graduate with a qualified Science, Technology, Engineering or Mathematics (STEM) degree, and are currently in an approved post-completion OPT period may be able to obtain a 24-month extension of their post-completion OPT. However, an F-1 student on STEM OPT can only be employed by an E-Verify program participating employer. STEM OPT Extension will give an F-1 student more than one chance to apply for H-1B status.



Employment-Based Green-Card

MOST COMMON EMPLOYMENT-BASED IMMIGRANT VISA PREFERENCE (CATEGORIES):

- **EB-1:** Reserved for persons of extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors or researchers; and multinational executives and managers. The Labor Certification process described in the next section is not required for those who fall into this category.
- **EB-2:** Reserved for persons who are members of the professions holding advanced degrees or for persons with exceptional ability in the arts, sciences, or business. In certain situations the Labor Certification process may be waived.
- **EB-3:** Reserved for professionals, skilled workers, and other workers.

- 
- One common method of obtaining a basis for lawful permanent residence status in the U.S. is through the filing of a Labor Certification Application by a sponsoring employer with the U.S. Department of Labor (DOL). The application is an offer of full-time permanent employment by the employer to the beneficiary. The employer must establish via recruitment activities and documentation that there is no qualified, willing, able, and available U.S. worker for the job. If DOL agrees, it will issue certification of the position to the Secretary of State and Secretary of Homeland Security. This certification then forms the basis for the foreign national to immigrate to the United States.
 - The next step is for the employer to file the Immigrant Petition for Alien Worker (I-140) with USCIS, requesting an employment-based immigrant visa classification and priority date for the beneficiary. Once it is approved by USCIS, and if the visa number priority date is current and available, the beneficiary may be able to apply for adjustment of status in the U.S. or for an immigrant visa with a U.S. Consulate.
 - To be eligible to apply for adjustment of status in the U.S., the I-140 Petition, must either be filed with the I-485, Application to Adjust status, or already been approved by USCIS. The applicant must also have been admitted into the U.S. (inspected by U.S. Customs and Border Protection) and continuously maintaining a valid nonimmigrant status (except for a period of not more than 180 days). There is a very limited exception to this general rule if someone can establish that they are grandfathered under an old section of law known as 245(i). If someone has been in the U.S. since before December 2000 or had parents who were here at that time and ever had anything filed for them with Immigration, it is important to have a lawyer look at the paperwork involved in that filing to see if it could help.
 - Deferred Action is a discretionary decision by the Dept. of Homeland Security not to pursue enforcement action against a person for a specific period. It does not provide a recipient any valid nonimmigrant status. So, DACA recipients may not be eligible to adjust status, even if sponsored by an employer.
 - A DACA recipient subject to an "unlawful presence bar," who plans to apply for an employment-based immigrant visa with a U.S. Consulate overseas, must carefully consider his or her eligibility for and the chances of receiving a grant of the waiver of the "unlawful presence bar" via the U.S. Consulate or the provisional "unlawful presence bar" waiver by USCIS in the U.S.

How to Prepare if You Have A Fear of Persecution; Special Issues for Children

Annie Chen,
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Victoria Neilson,
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Claire R. Thomas,
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What do I do if I have been harmed in my home country or think that I will be harmed if I return to my country?

You may qualify for “**asylum**” which grants you the ability to legally stay in the United States.

What do I need to show to qualify for asylum?

You must prove that

- 1) You have suffered past persecution, or that you are afraid of future persecution, meaning that there is at least a 10% chance that you will be harmed.
- 2) The harm must be done by the government, or by someone that the government cannot or will not control.
- 3) The harm is *because of* your race, religion, nationality, political opinion, or membership in a “particular social group” (ie victims of domestic violence; people who are gay or transgender; victims of FGM).

When should I apply for asylum?

You must apply within one year of your last arrival to the US.

It's been more than one year since I arrived. Can I still apply?

You can still apply for asylum if you show that there are changed or extraordinary circumstances, and that you are applying within a reasonable time. We will discuss a separate exception for children later on.

I have a criminal record. Can I apply?

Maybe. You are eligible for asylum if you have not been convicted of certain serious crimes, such as aggravated felonies.

How do I apply for asylum?

I do not currently have a case in Immigration Court. How do I apply?

You can apply “affirmatively,” meaning that you submit an application directly to USCIS. After the interview, the officer will give you a decision.

If you win, you can apply for your family and then apply for your green card after 1 year. Later on, you will be able to apply for citizenship.

If you lose, you will be referred to the immigration court and an immigration judge will decide if you qualify for asylum.

If you disagree with the judge’s decision, you can appeal to the BIA and then the circuit court.

I already have a case in Immigration Court. How do I apply?

You can apply for asylum “defensively” as a way to stop your deportation. The court hears Adults with Children (“AWC”) and UAC cases more quickly than others, but UACs are allowed to apply through the affirmative process.

You may also apply for withholding of removal, which requires a 51% likelihood of persecution, or relief under the Convention against Torture (CAT), which requires that you show a 51% likelihood of torture if you return to your country.

Special Issues for Immigrant Children

Who is a child in immigration law?

It depends! Typically it is a person who is under 21 years old and unmarried.

Who is an unaccompanied child (UAC)?

A child is designated as a UAC if, at the time of apprehension by immigration authorities, 1) has no lawful immigration status in the United States, 2) is under 18 years old, and 3) has no parent or legal guardian in the U.S., or has no parent or legal guardian in the U.S. to provide care and custody.

I’m a child and I’m scared of going back to my country. Can I apply for asylum?

Yes. For children, the harm feared is considered from a child’s point of view. If you are a UAC, you can apply affirmatively and you can apply even after one year from your arrival to the US if you are still designated a UAC.

Are there other forms of immigration relief for children?

Yes. A child may qualify for Special Immigrant Juvenile Status (SIJS) if:

The child is under 21, unmarried, and under the jurisdiction of a Juvenile Court (Family Court); and

A juvenile court judge finds that:

- 1) the child is unable to reunite with one or both of your parents due to abuse, abandonment, or neglect, or other similar basis (such as the death of a parent); and
- 2) it is not in his or her “best interest” to return to their country of origin.

How to Prepare If You Are LGBTQ or HIV Positive

Pamela Denzer, Immigration Equality
Cristina Velez, HIV Law Project
Jamila Hammami, Queer Detainee Empowerment Project



Will having a new president affect my marriage?

- Marriage battles won over the last ten years are unlikely to be overturned under a new administration.
- The U. S. Supreme Court issued two landmark decisions recognizing the rights of same-sex couples to marry in 2013 and 2015.
- While the Supreme Court occasionally overrules itself, it does so sparingly and generally only after a very long time has passed.
- Mr. Trump will likely be able to nominate very conservative judges including at least one spot on the Supreme Court. It seems probable that anti-marriage advocates will bring cases to try and chip away at marriage equality.
- Even if this is the case, sponsorship of a same-sex spouse for immigration benefits should remain an option absent a substantial, unconstitutional shift of power in the federal government.

Will having a new president affect my asylum case?

- The opportunity to file for asylum in the U. S. has its origins in decades-old international treaties. These in turn were enacted into statute by the U. S. Congress many years ago.
- No president can change a statute without the help of Congress. Therefore, a new president cannot eliminate the asylum system altogether.
- It seems probable that the U. S. will continue to protect asylum seekers on the basis of sexual orientation and gender identity.
- Presidents have a great deal of say about how the asylum system operates. Mr. Trump could make it much harder to obtain asylum or delay cases even more than they are now. It may also be that the new administration does not change the asylum system at all.

Will having a new president affect my ability to change my gender identity documents?

- Mr. Trump has not specifically indicated that he will reverse the name and gender policies of any agencies.
- Nevertheless, you should update your documents now if you can.
- You can find the U. S. State Department's current gender marker policy here: <https://travel.state.gov/content/passports/en/passports/information/gender.html>
- U. S. Department of Homeland Security's policy is here: https://www.uscis.gov/sites/default/files/USCIS/Outreach/Feedback%20Opportunities/Interim%20Guidance%20for%20Comment/Transgender_FINAL.pdf
-

Will having a new president affect my immigration case if I am a person living with HIV?

- Mr. Trump has not specifically mentioned people living with HIV in the immigration context.
- The previous immigration and travel ban for people living with HIV was statutory, and overturned by Congress in 2010.
- It seems very unlikely that such a ban would be reinstituted.

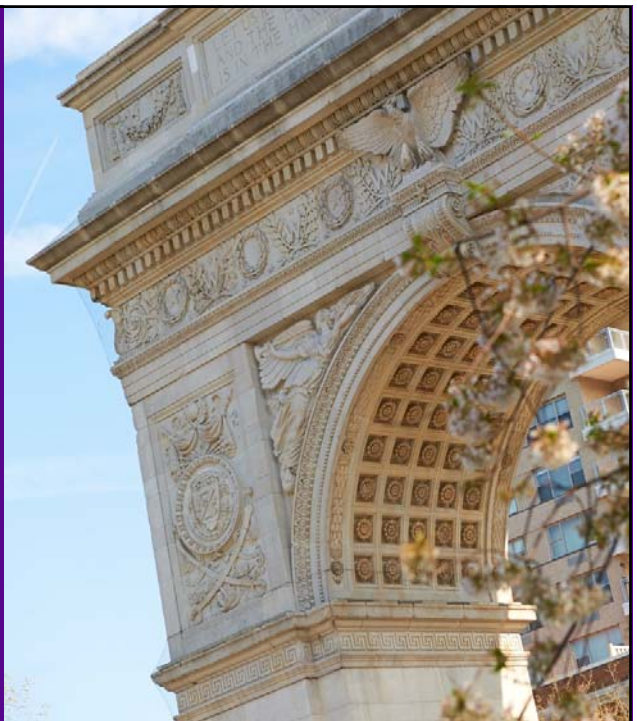
Breakout Sessions

Questions & Answers – Tishman Auditorium

New York Local and State Strategies – Room 204

National Strategies – Room 210

Food in Rooms 204, 206, 210, and 214



Questions and Answers

Please write your question on a note card and
pass it to the end of your aisle



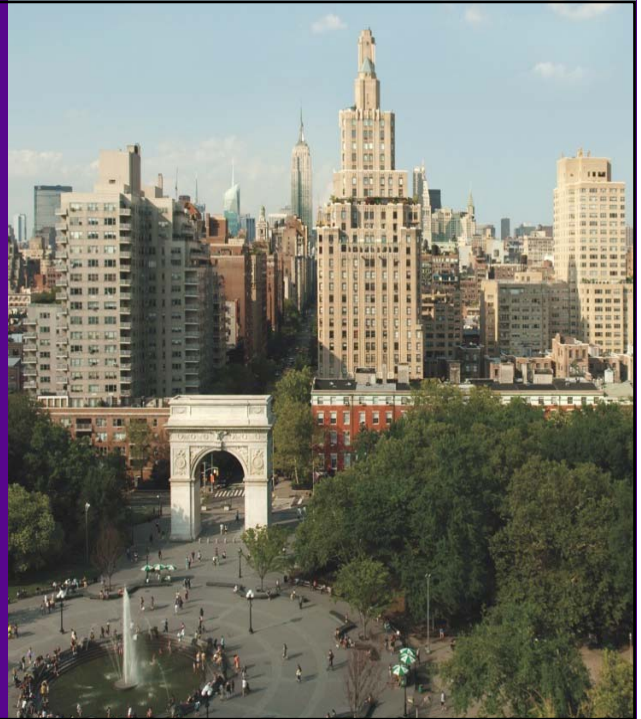
Closing Remarks

Jojo Annobil, Immigrant Justice Corps
Alina Das, NYU Immigrant Rights Clinic



Optional Organizing & Planning Spaces For Next Steps

Room VH 204, 206, 210, and 214



Immigrant Rights Teach-In & Know Your Rights Presentation

Hosted By:
Immigrant Justice Corps &
NYU Immigrant Rights Clinic

