



IMMIGRANT LEGAL DEFENSE FUNDS IN TEXAS

A Texas lens on what immigrant legal defense funds are, how they work, and why they're critical for immigrants at risk of deportation

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Immigration court is uniquely unjust in that it is the only type of legal proceeding in the United States where a person is forced to defend their freedom and safety without the guaranteed right to counsel. This means that an overwhelming majority of individuals in immigration court will face a judge and be forced to argue against a trained government attorney alone. This unfairness for immigrant defendants creates a clear need for free and accessible legal representation in immigration court. For years, immigrant advocates have campaigned for **immigrant legal defense funds (ILDFs)**, which pay legal service providers to represent community members facing deportation in immigration court. Several states, including California and New York, have allocated state funding for deportation defense,¹ and even in states that have not, municipal (city or county) governments have also allocated these crucial funds for immigrant communities. A successful ILDF should be based on a universal representation model (URM), which is rooted in the principle that due process should be available to all community members. This explainer outlines the important components of creating and implementing an ILDF that incorporates the needs of community.

WHY ARE IMMIGRANT LEGAL DEFENSE FUNDS NEEDED IN TEXAS?

- **Texas is comprised of a diverse community.** Approximately 10% of Texas residents are immigrants who are undocumented or who have immigration status but are not U.S. citizens.²

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- **Many U.S. citizens living in Texas have a family member who is at risk of deportation.** Nearly 13% of Texas residents are U.S.-born citizens with at least one immigrant parent.³ Children with a family member who is in immigration detention or who was deported are at greater risk of physical, mental health, and behavioral problems including malnutrition, suicidal ideation, substance abuse, and truancy.⁴
- **Deportation proceedings affect many Texas residents with a broad range of immigration histories.** While people without immigration status are most at risk of being put into deportation proceedings, anyone who is not a U.S. citizen is also at risk if their status lapses or they have certain interactions with the criminal legal system. This includes legal permanent residents (LPRs), asylees, refugees, and those with a visa, Deferred Action for Childhood Arrivals (DACA) holders, or Temporary Protected Status (TPS).
- **Many community members in immigration proceedings are unrepresented.** Over 2 million deportation cases are pending in Texas immigration courts.⁵ Nearly 70% of Texas residents with cases pending in immigration court are without an attorney.⁶
- **Having an attorney in immigration proceedings positively impacts the case outcome.** Among asylum case decisions in 2022, 40% of individuals with an attorney received a positive case outcome. However, when an individual is unrepresented, the rate of success significantly decreases. Only 22% of people without an attorney were granted some form of legal relief from deportation.⁷

ADVOCATING FOR AN IMMIGRANT LEGAL DEFENSE FUND

Winning this type of investment for immigrant communities is achievable but requires an organized and visible local campaign. Partnering with a diverse coalition of community groups and directly impacted communities is key. The ILDF goals and components below will help to establish clear campaign goals.

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GOALS OF IMMIGRANT LEGAL DEFENSE FUNDS

- ✓ Provide legal representation to community members facing deportation who cannot otherwise afford an attorney.
- ✓ Provide individuals with meaningful access to their due process rights.
- ✓ Protect community members from harmful and inhumane immigration detention and help advocate for the community member's release if detained.
- ✓ Ensure community members remain safely in the United States with their families and can gain some form of legal status if eligible.
- ✓ Educate officials and communities about the harms of detention and deportation.
- ✓ Ensure a municipality supports the needs of all community members, regardless of their immigration status.
- ✓ Protect community members from the harmful arrest-to-deportation pipeline.

COMPONENTS OF A STRONG AND HOLISTIC IMMIGRANT LEGAL DEFENSE FUND

- **Robust and sustainable fund:** An ILDF budget should make a meaningful contribution towards supporting the vast needs of the community members who are at risk of deportation and cannot afford an attorney. The municipality should create a sustainable and renewable funding source.
- **Universal Representation Model (URM):** All community members should be eligible on a first-come, first-served basis without consideration of their past interactions with law enforcement or the difficulty of their immigration case.
- **Flexible residency requirements:** People who live (or are planning to live) in the municipality should be eligible to apply for legal services.

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- **Holistic representation:** Immigration proceedings are complex; practitioners providing representation under the fund should have the flexibility to partner with mental health providers, interpreters, and other experts to provide comprehensive and trauma-informed representation to their clients.
- **Request for Proposal (RFP) process:** Once an ILDF is created, the municipality will likely need to create a formal process in which it publishes an RFP. An RFP is an announcement to organizations informing them they can apply to receive the funding to serve clients. The organizations will then submit proposals of how they will use the funding if chosen to receive funds, and the municipality will select organizations to receive funding. This RFP process should be accessible to local organizations (of any size) committed to serving community members in immigration court.
- **Task force:** A task force, comprised of community groups and directly impacted people should work with the municipality to provide recommendations for the RFP process and help review RFP proposals.
- **Vera Safety and Fairness for Everyone (SAFE) Program:** The municipality should consider applying to be a VERA Institute of Justice SAFE site partner. Municipalities that are selected to be a SAFE site receive technical support and may be eligible to receive additional community funding to support legal service providers.
- **Fund management:** The ILDF should be housed within a municipal department that will accept input from a variety of community stakeholders.

EXAMPLES OF TEXAS LOCALITIES WITH IMMIGRANT LEGAL DEFENSE FUNDS

- **Harris County Immigrant Legal Services Fund and Survivor Services in Immigration Law Program:** Created a \$2 million ILDF in 2020 for two programs, one for



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residents in deportation proceedings who are in an immigration detention facility in the Greater Houston area and one for survivors of crime in immigration proceedings.

- **Bexar County Immigrant Legal Defense Fund:** Secured \$1 million in 2022 for community members facing deportation proceedings.
- **City of San Antonio Funded Legal Immigration Services:** Secured \$150,000 in 2017 for legal representation, including funds for deportation defense, which has been renewed annually.

If you are interested in creating an immigrant legal defense fund in your locality, please reach out to ILRC Policy Attorney and Strategist, Priscilla Olivarez, at polivarez@ilrc.org and Texas Regional Organizer, Katy Murdza, kmurdza@ilrc.org.

Endnotes

- 1 Advancing Universal Representation: A Toolkit for Advocates, Organizers, Legal Service Providers, and Policymakers, Vera Institute of Justice, "Building the Movement, Introduction," May 2020, <https://www.vera.org/advancing-universal-representation-toolkit/building-the-movement#introduction>.
- 2 American Immigration Council, "New Americans in Texas," <https://map.americanimmigrationcouncil.org/locations/texas>.
- 3 American Immigration Council, "New Americans in Texas," <https://map.americanimmigrationcouncil.org/locations/texas>.
- 4 Capps, Randy et al., Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families, Urban Institute and Migration Policy Institute, September 2015, <https://www.urban.org/sites/default/files/alfresco/publication-exhibits/2000405/2000405-Implications-of-Immigration-Enforcement-Activities-for-the-Well-Being-of-Children-in-Immigrant-Families.pdf>. Roche, Kathleen M. et al., "Association of Family Member Detention or Deportation With Latino or Latina Adolescents' Later Risks of Suicidal Ideation, Alcohol Use, and Externalizing Problems," JAMA Pediatr. 2020 May; 174(5): 1-9. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7076534>; Anderson, Melinda D., "How Fears of Deportation Harm Kids' Education," The Atlantic, January 26, 2016, <https://www.theatlantic.com/education/archive/2016/01/the-educational-and-emotional-toll-of-deportation/426987>.
- 5 TRAC, "Immigration Court Backlog," <https://trac.syr.edu/phptools/immigration/backlog>.
- 6 TRAC, "Individuals in Immigration Court by Their Address," <https://trac.syr.edu/phptools/immigration/addressrep>.
- 7 TRAC, "Asylum Decisions," <https://trac.syr.edu/phptools/immigration/asylum>.

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