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**American Immigration Council and American Immigration Lawyers Association Submit
Recommendations for Protecting
The Right to Effective Assistance of Counsel**

November 12, 2009

Today, the American Immigration Council (formerly the American Immigration Law Foundation, AILF) and the American Immigration Lawyers Association (AILA) send a letter to the Executive Office for Immigration Review (EOIR) recommending steps the immigration courts and the Board of Immigration Appeals (BIA) can take to protect the right to effective assistance of counsel and help ensure that noncitizens in removal proceedings are afforded a fair hearing. Our recommendations include: 1) reasonable procedures for those filing an ineffective assistance of counsel claim and for EOIR's consideration of those claims and 2) reasonable ameliorative measures that EOIR can take to reduce attorney and respondent mistakes and reduce the number of ineffective assistance claims.

The Attorney General, in *Matter of Compean*, 25 I&N Dec. 1 (A.G. 2009), directed EOIR to initiate rulemaking procedures to evaluate and possibly modify EOIR's current framework for evaluating ineffective assistance of counsel claims. The immigration courts and the BIA have applied this framework since the BIA issued its decisions in *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), and *Matter of Assaad*, 23 I&N Dec. 553 (BIA 2003). We ask EOIR to integrate our recommendations into the revised framework that will be proposed by EOIR.

AILF and AILA have long worked to protect the right to effective assistance of counsel in removal proceedings. We have appeared as amicus curiae in *Matter of Compean* and *Matter of Assaad* and in federal courts cases, and have submitted comments to EOIR's proposed professional responsibility regulations. In addition, AILA members frequently encounter the problems stemming from *Matter of Lozada* issues and have wrestled for many years with EOIR's current framework. AILA's committees also work to resolve these issues with EOIR through national and local liaison efforts.

We encourage other interested organizations to contribute to this effort, either by submitting separate recommendations or a letter endorsing our recommendations. Others are welcome to quote from or use all or part of our letter.

Read our [letter](#).

Read about litigation related to *Matter of Compean* on the Legal Action Center's [Ineffective Assistance of Counsel Litigation Issue Page](#).

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