

# Webinar

## Walking With:

# Migrant Accompaniment for Ministry Leaders in 2025 and Beyond

January 17 | 12PM ET



Co-hosted by ELCA AMMPARO and EMM



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MIGRATION MINISTRIES



# AMM PARO

Accompanying Migrants with Protection, Advocacy, Representation and Opportunities



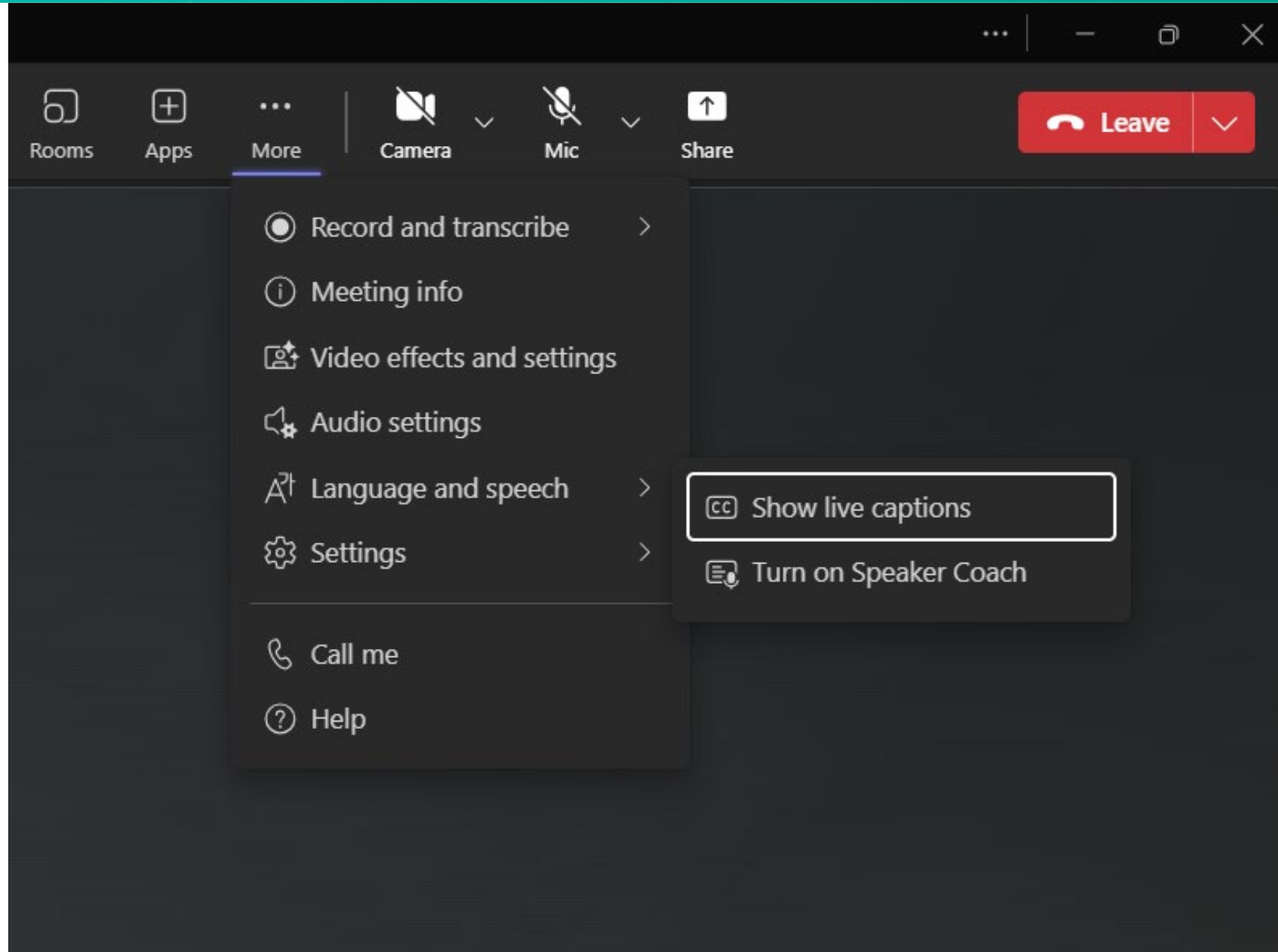
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MIGRATION MINISTRIES

# Traduccion

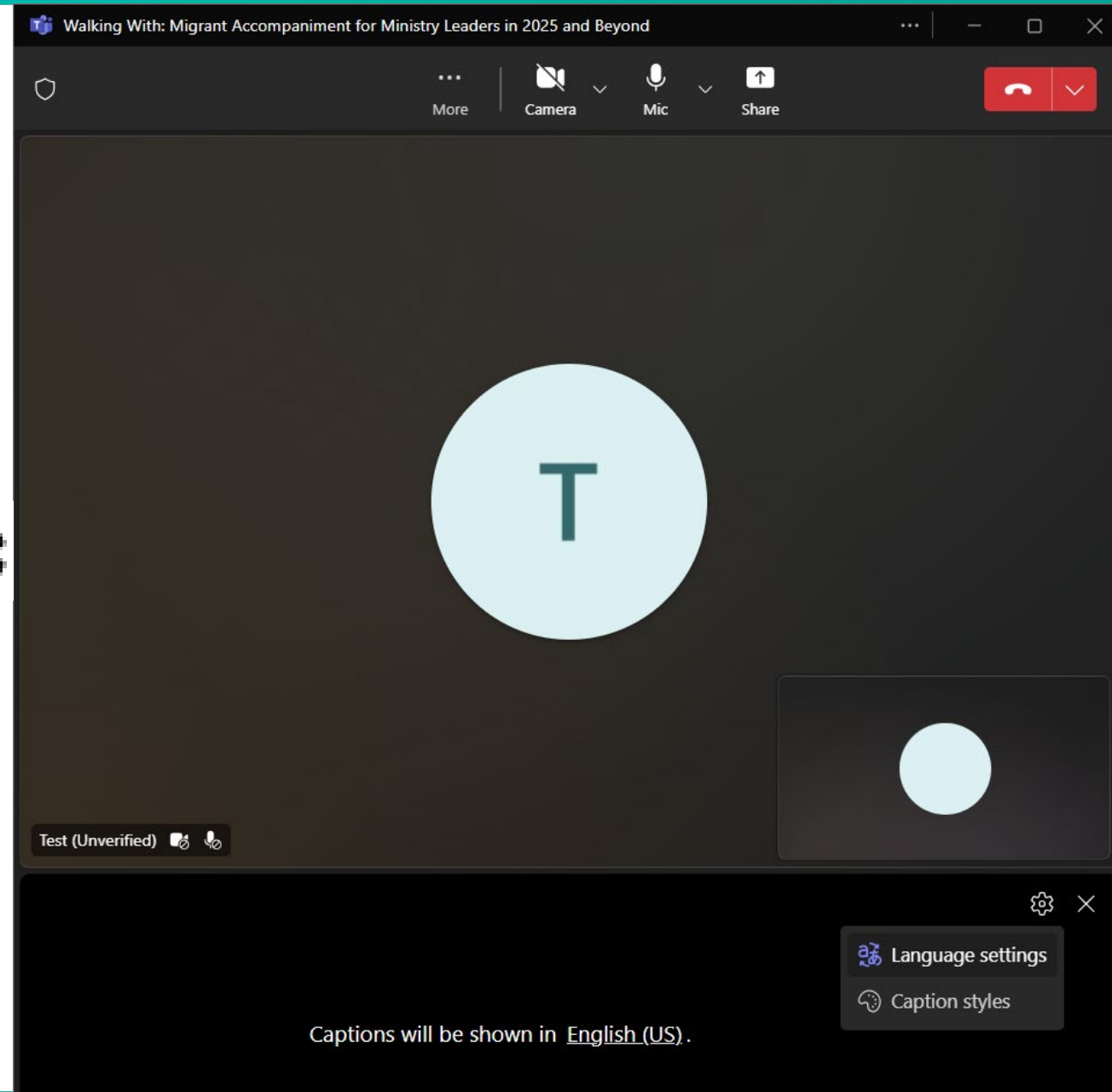
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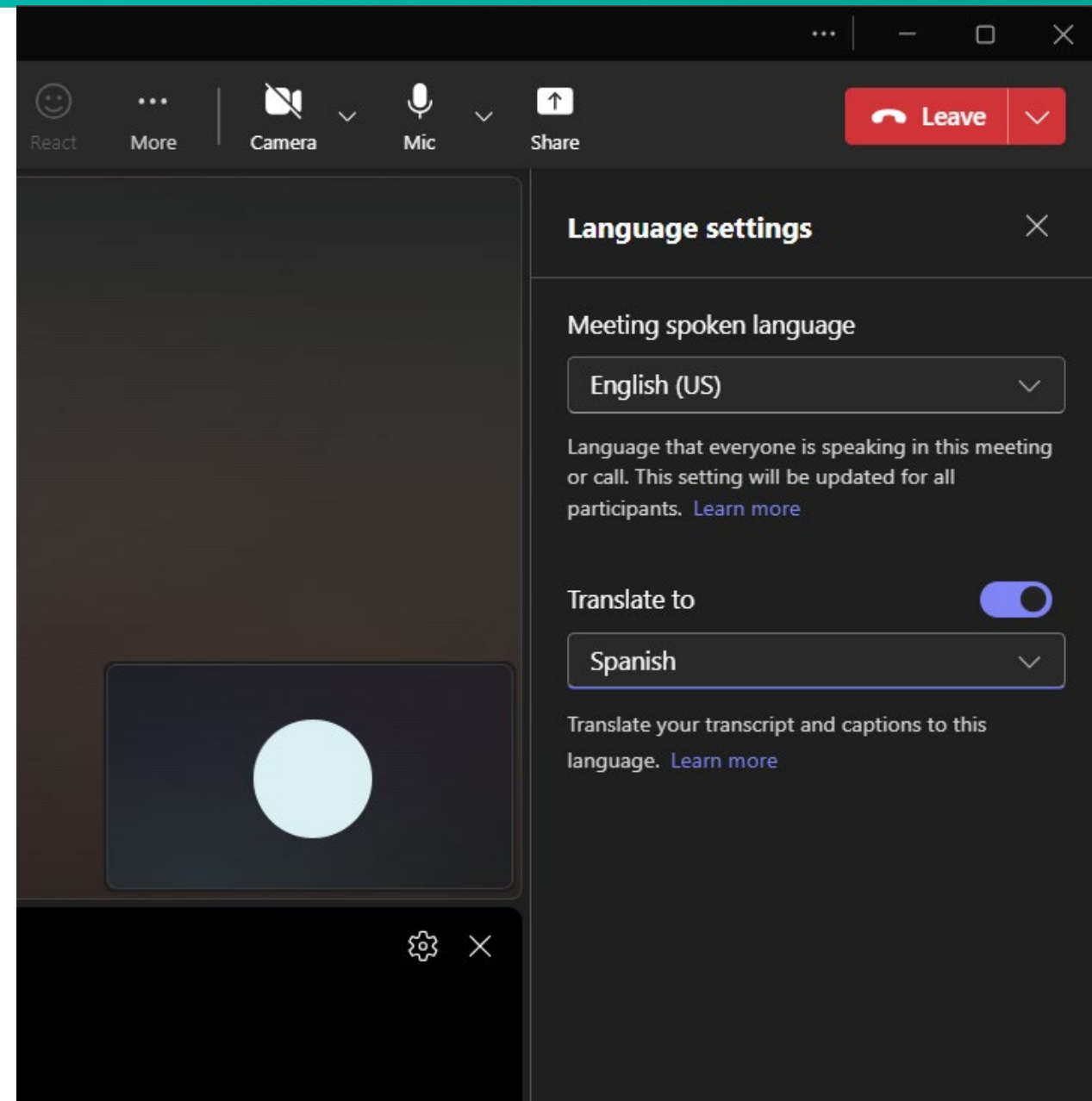
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# Presenters

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# Overview of U.S. Immigration Law

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# Agencies Involved

- U.S. Department of Homeland Security
  - U.S. Citizenship & Immigration Services (USCIS)
  - U.S. Immigration & Customs Enforcement (ICE)
  - U.S. Customs & Border Patrol (CBP)
- U.S. Department of Justice
  - Executive Office for Immigration Review (EOIR)
    - Immigration Courts
    - Board of Immigration Appeals
- U.S. Department of State
- U.S. Department of Labor

# Sources of Law

- Immigration and Nationality Act of 1952, as amended (INA) – found at 8 U.S.C.
- Regulations:
  - 8 CFR – Department of Homeland Security & Executive Office for Immigration Review
  - 22 CFR – Department of State
- Case law:
  - Board of Immigration Appeals
  - Federal Courts of Appeals

# Nonimmigrant vs Immigrant Status

- Nonimmigrant = temporary visitor
  - Must have intent to temporarily visit the United States
  - Intent can change after entry
- Immigrant = permanent resident
  - “green card” holder
  - May apply from abroad (Immigrant Visa processing) or from within the United States (Adjustment of Status)

# Nonimmigrant Visa Types

- Temporary Visitors (B-1/B-2)
- Students and Trainees (F, M, J)
- Employment-based NIVs
  - H-1B, TN, E-2 – specialty occupation
  - L-1 – Intracompany transferees
  - E-1/E-2 – Treaty traders/investors
  - O and P – Extraordinary ability, athletes, artists, entertainers
  - H-2A / H-2B – Agricultural workers / seasonal workers
  - R – Religious Workers
  - Q – Cultural Exchange program
  - I - Media
- Family-based NIVs
  - K-1/K-2 – Fiancé(e) and dependents of USC
  - K-3/K-4 – Spouse and dependents of USC
- Humanitarian based NIVs
  - S – Noncitizens who assist law enforcement
  - T – Victims of severe forms of human trafficking
  - U – Victims of certain crimes who are helpful to law enforcement in reporting/investigating/prosecuting the crimes

# R-1 Religious Workers

- Ministers (8 CFR § 214.2(r)(3))
- Religious Workers (8 CFR § 214.2(r)(1))
  - Religious Occupation
    - Duties relate to a traditional religious function
    - Recognized as a religious occupation within the denomination
    - Involve carrying out religious creed and beliefs of denomination
    - Not positions that are primarily administrative or support
    - Not solely for religious study or training
  - Religious Vocation
    - Form of lifetime commitment through vows, investitures, ceremonies, etc.

# R-1 Religious Workers (con't)

- R-1 beneficiary must be a member of the same religious denomination as petitioner for at least *two years* prior to petition.
- Petitioner must be a bona fide nonprofit religious organization in the United States.
- Must be coming to work at least 20 hours per week.
- 5-year maximum stay in U.S. (initial admission for 30 months with option to extend for another 30 months).
- Recapture time outside of United States.
- Must be compensated with amount stated in petition and by petitioner who signed I-129/R.

# Lawful Permanent Residents - Avenues

- Family-based petition
- Employment-based petition
- Diversity Visa lottery
- Registry (entry prior to 1/1/1972 and continuous residence)
- Asylum or Refugee Status
- Amnesty – prior Legalization and SAW programs
- Cancellation of Removal (may only apply in removal proceedings)
- VAWA self-petitions and U & T visas

# Family-based preference categories

- Immediate relatives
  - Spouses, unmarried children under 21, and parents of USCs
  - No preference category – visas immediately available
- F-1: Unmarried children 21 and older of USCs
- F-2A: Spouses and unmarried children under 21 of LPRs
- F-2B: Unmarried children 21 and over of LPRs
- F-3: Married children of USCs
- F-4: Siblings of USCs 21 and older



# Employment-based preference categories

- EB-1: Multinational managers, Extraordinary ability workers, outstanding professors and researchers
- EB-2: Jobs requiring Master's degree or equivalent, and employees with Master's degree or equivalent
- EB-3: Jobs requiring Bachelor's degree or 2 years experience, and employees with Bachelor's degree or 2 years experience.
- EB-4: Special Immigrants (VAWA, Religious Workers)
- EB-5: Employment creation investors

# Citizenship & Naturalization

- U.S. citizen by birth in the USA or its territories (Puerto Rico, Guam, U.S. Virgin Islands)
- Naturalization
  - After 3 or 5 years as LPR
  - Over 18
  - Civics and English language requirement
  - Good moral character for statutory period prior to application
- Acquisition of citizenship from parents

# Inadmissibility vs. Deportability

- Grounds of inadmissibility (INA § 212) affect individuals who want to be admitted to the United States (including physical admission in the form of entry and admission in a particular immigration status)
- Grounds of deportability (INA § 237) affect individuals who have already been admitted and who the U.S. government is seeking to remove.

# Grounds of Inadmissibility (INA § 212)

- Convictions for certain crimes.
- Smuggling people into the United States.
- Immigration fraud.
- Unlawful presence in the United States.
- Certain contagious diseases.
- Likelihood of becoming a public charge.
- No valid visa or legal permission to enter the United States.
- Has entered the United States without permission.
- Terrorist.

# Grounds of Deportability (INA § 237)

- Convictions for certain crimes.
- Terrorist.
- Marriage fraud / Document fraud.
- Smuggling individuals into the United States.
- False claim to U.S. citizenship / unlawful voting.
- Was really inadmissible at the time of admission to the United States.
- Public Charge.

# Removal Proceedings

- Initiated by DHS with “Notice to Appear.”
- Notice to Appear will allege why the Respondent is inadmissible or deportable and will charge the individual as being removable from the United States.
- Respondent has the right to appear before an Immigration Judge to respond to the Notice to Appear with counsel of choice (gov’t not required to appoint counsel).
- If eligible for relief from removal, may present application for relief, evidence, and witnesses, at final individual hearing.

# Relief from Removal in Proceedings

- Adjustment of Status to Lawful Permanent Resident.
- Cancellation of Removal (for LPRs or non-LPRs).
- Asylum/Withholding/CAT.
- 237(a)(1)(H) waiver for certain individuals who committed fraud at time of admission.
- U visa.
- TPS.
- DACA.
- Voluntary Departure.
- Administrative Closure.

# Detention / Bond

- Ineligible for Bond:
  - Individuals stopped at the border and found inadmissible (“arriving aliens”)
  - Mandatory custody for convictions of certain crimes
  - Mandatory custody for terrorism-related grounds
  - Final order of removal
  - Expedited removal proceedings
- Bond
  - Minimum bond = \$1,500.00
  - Bond should be granted unless there is a finding that the individual is a threat to national security, likely to abscond or a poor bail risk
  - DHS sets bond; IJ may redetermine bond amount



# Deferred Action for Childhood Arrivals (DACA)

- Established in 2012 as a temporary solution for noncitizens without U.S. immigration status who entered the United States before age 16.
- Has provided nearly 800,000 individuals with employment authorization and a reprieve from deportation for those who met the strict eligibility requirements
- USCIS is no longer processing new initial DACA requests, but will continue to approve timely filed DACA renewal applications.

# Immigration Detention and Your Rights

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# Who is authorized to enforce immigration laws?

- DHS officers - USCIS, CBP, ICE.
- Local law enforcement that have been deputized by DHS.

# Who is at risk of being detained?

- Individuals with outstanding final removal orders.
- Individuals who are not U.S. citizens who have a criminal history.
- Individuals who do not have lawful immigration status (varying degrees of risk).

# Warrants

There are two types of warrants:

- Judicial Warrant issued by a Federal District Court judge - allows for ICE officers to enter and search private property, and to arrest individuals on private property, without the consent of the individual or property owner.
- Administrative Warrant by Department of Homeland Security - allows arrest of an individual in public, or on private property after receiving consent to enter the property.

# Where and when can a person be detained?

- **In public:** if ICE has a warrant or if an ICE officer has probable cause (reason to believe) that a person is violating immigration laws AND is likely to escape before a warrant can be obtained, factors considered as a whole include:
  - Officer's ability to determine the individual's identity.
  - Knowledge of that individual's prior escapes or evasions of immigration authorities or attempted flight from an ICE Officer.
  - Ties to the community (such as a family, home, or employment) or lack thereof.
  - Other specific circumstances that weigh in favor or against a reasonable belief that the subject is likely to abscond.
  - NOTE: mere unlawful presence in the U.S. is not enough to conclude a warrant cannot be first obtained.

# Where and when can a person be detained? (Cont.)

- **Traffic stops:** ICE is not allowed to enforce state or local vehicle or traffic laws. ICE can only stop a vehicle if they have a warrant or facts that the vehicle has persons who violated immigration laws. They do sometimes work with police who first make the stop.
- **At home, private property:** only if the officer has a judicial warrant or consent to enter.
- **Place of employment:** ICE must have a judicial warrant or consent of employer to enter the non-public areas of the property.
- **Upon release from State custody:** ICE frequently issues “detainers” to correctional facilities requesting a person be detained for an additional 48 hours so that ICE can take custody. Requires a warrant.

# Are Churches, Religious Organizations, Schools, and Hospitals Protected from ICE actions?

- “Sensitive locations” - generally, ICE does not enter these places as they are considered sensitive locations, but there are no special protections for Churches, religious organizations, schools or hospitals.
- ICE must still have a judicial warrant, consent to enter the non-public area of property, or probable cause.
- Typically has been reserved only for situations involving people hiding right after crossing the border, national security threats, public safety threats, and destruction of evidence.
- Typically only after supervisory agent approval.



# Will there be enforcement operations at Churches, Religious Organizations, Schools, and Hospitals?

- Likely to be more than there are currently, as Trump says he will remove the “sensitive locations” policy, but *unlikely* to be mass scale.
- Under Trump 1, there were at least 63 planned arrests at sensitive locations, but only five actual arrests at or near a sensitive location between 10/2017 and 10/2020.
- ICE must still have warrant, consent, or probable cause, which will be difficult given the nature of these institutions and the confidentiality of persons who frequent these places.

# Can Churches, Religious Organizations or Clergy be Penalized?

- Federal law prohibits the concealing, harboring, shielding from detection, or transporting of undocumented persons when such action aids their unlawful stay in the country, as do some state laws.
- Federal law prohibits encouraging or inducing a persons to come to, enter, or reside in the U.S. unlawfully.
- Does that mean they will be prosecuted? Probably only in the most egregious cases.
- Speak to an attorney if you are concerned about your specific activities.

# Rights during an encounter

- Right not to speak, decline to answer questions. You should say you will remain silent.
- Right to refuse to show ID or other documents.
- Right to refuse to discuss your immigration status.
- Right to speak to a lawyer.
- Right to see a warrant.
- Generally you can refuse to give your name, you may have to give your name if you are stopped in public while they are investigating a crime.
- Ask if you are under arrest or are free to leave, and walk away if not under arrest.
- Contact your embassy or consulate.
- Refuse to sign anything.

# What to do during an encounter?

- Ask if officer what law enforcement agency they are from, ask if they are from ICE or CBP. If they say “police” ask what specific department or agency they work for. The officers are required to identify themselves .
- Ask if they have a warrant.
- Show your know-your-rights card to officer.
- Tell the officer you have children if you think you will be arrested (only if you have children).

# What NOT to do during an encounter?

- Do not lie about status.
- Do not give fake or fraudulent ID or document.
- Do not disclose your lack of immigration status.
- Do not resist arrest.
- Do not use force of any kind.
- Do not run.
- Do not sign anything you do not understand or cannot read, or that you do not want to sign.

# What happens after arrest?

- The person does not get deported the same day.
- Processed, questioned, printed, and given documents. (This may occur the next day if detained late in the day).
- Two outcomes after processing:
  - Released, typically with a notice to appear in Immigration Court for Removal Proceedings. May have conditions of release such as check-ins or electronic monitoring.
  - Detained. May be able to request bond depending on their criminal and immigration histories.

# Finding a Person Who is Detained

- ICE Detainee Locator – <https://locator.ice.gov/odls/#/search>.
- Information needed for the locator:
  - A-Number and Country of birth, or
  - First Name, Last Name, Country of Birth, Date of birth.
- Locator will provide name, address, and phone of the detention facility or jail where the person is being held.
- Each facility has its own procedures.
- There can be a delay between time detained and when appear in the ICE system, especially if detained by CBP.

# Who can attend ICE meetings or check-ins?

- Only the person required to meet or check-in with ICE, along with their attorney or accredited representative.
- Clergy, family, and other supporters will not be able to accompany an individual during the meeting or check-in. Though some Field Offices may allow them in the waiting room.



# Be Prepared in Case of Detention

- Emergency contacts - give list to others and memorize phone numbers
- Emergency pickup for schools and day cares.
- Written authorization or power of attorney over your affairs and for legal and medical decisions of children.
- Any other preemptive family arrangements.
- Register your child's birth with your country of origin if they were born in the U.S.
- Get documents in order (proof of residence, financial, legal, medical, etc.).
- Make sure everyone knows about the detainee locator.
- Talk to immigration attorney.
- Financial security - i.e. bond money, savings to cover loss of work.

# What to carry and not carry?

## Carry:

- Proof of lawful immigration or citizenship status.
- Know-your-rights card (The card is in English and tells the officer that you will not speak, that you want to speak with an attorney, and that you do not consent to entry onto private property or search).
- Emergency contacts list.
- Your attorney or legal service provider's information.
- Proof of residence in the U.S.

## Do not carry:

- False documents or ID.
- ID or documents from your origin country if you do not have status.

# How can you help?

- **Encourage individuals to seek legal assistance** to determine status and employment authorization eligibility.
- Help finding attorneys and legal representatives:
  - Non-profit vs. private attorney.
  - Word of mouth recommendations.
  - <https://ailalawyer.com/>.
  - EOIR pro bono list  
<https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>.
- Financial support - bonds, legal fees, and other costs can be expensive.
- Build support networks (financial, communication, legal service access).
- Moral support.

# Seek Immigration Relief NOW!

- Individuals should apply for or renew:
  - Employment authorization (work permit/EAD).
  - Expired, expiring green cards.
  - DACA - Deferred Action for Childhood Arrivals (renewals only).
  - TPS - Temporary Protected Status.
- Apply for Asylum (and withholding of removal and CAT protection).
  - One year filing deadline with some exceptions.
  - **Generally, every person in the family should file their own asylum forms!!**
- Apply for U nonimmigrant status.
- Apply for family based immigration status.
- Any other relief?
- Change of status restrictions.

# Who can assist in preparing immigration forms?

- Only a licensed attorney and certain accredited representatives can advise a person on how to complete an immigration form.
- Non-attorneys/ARs can only assist with data entry on the forms.
- Pastors and clergy who are not attorneys/ARs are not allowed to instruct on preparing immigration forms.
- Beware of Notarios.

# Take Care of Taxes

- File and pay for 2024 taxes.
- File taxes for missed years and set up payment plan with IRS (accountant assistance recommended).

# Potential Upcoming Immigration Changes

- Federal funding and sanctuary cities.
- Harsher enforcement policies for non-citizens with criminal history, including arrests without charges.
- Asylum restrictions.
- TPS status.

# Questions



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# Co-Host



## ELCA AMMPARO

Accompanying Migrants with Protection,  
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# Co-Host



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### Resources from Episcopal Migration Ministries:

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