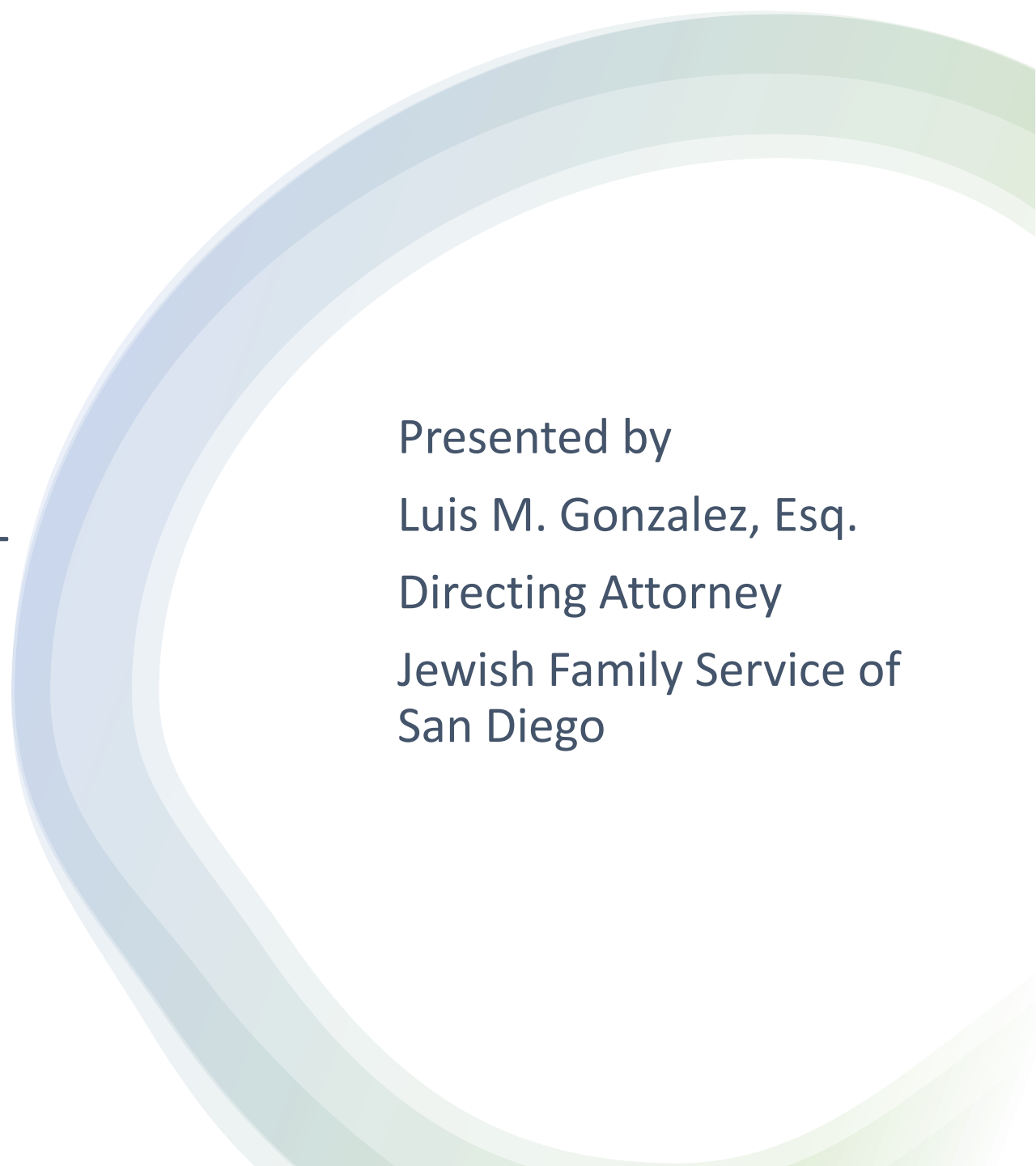




# Asylum Process at the US- Mexico Border

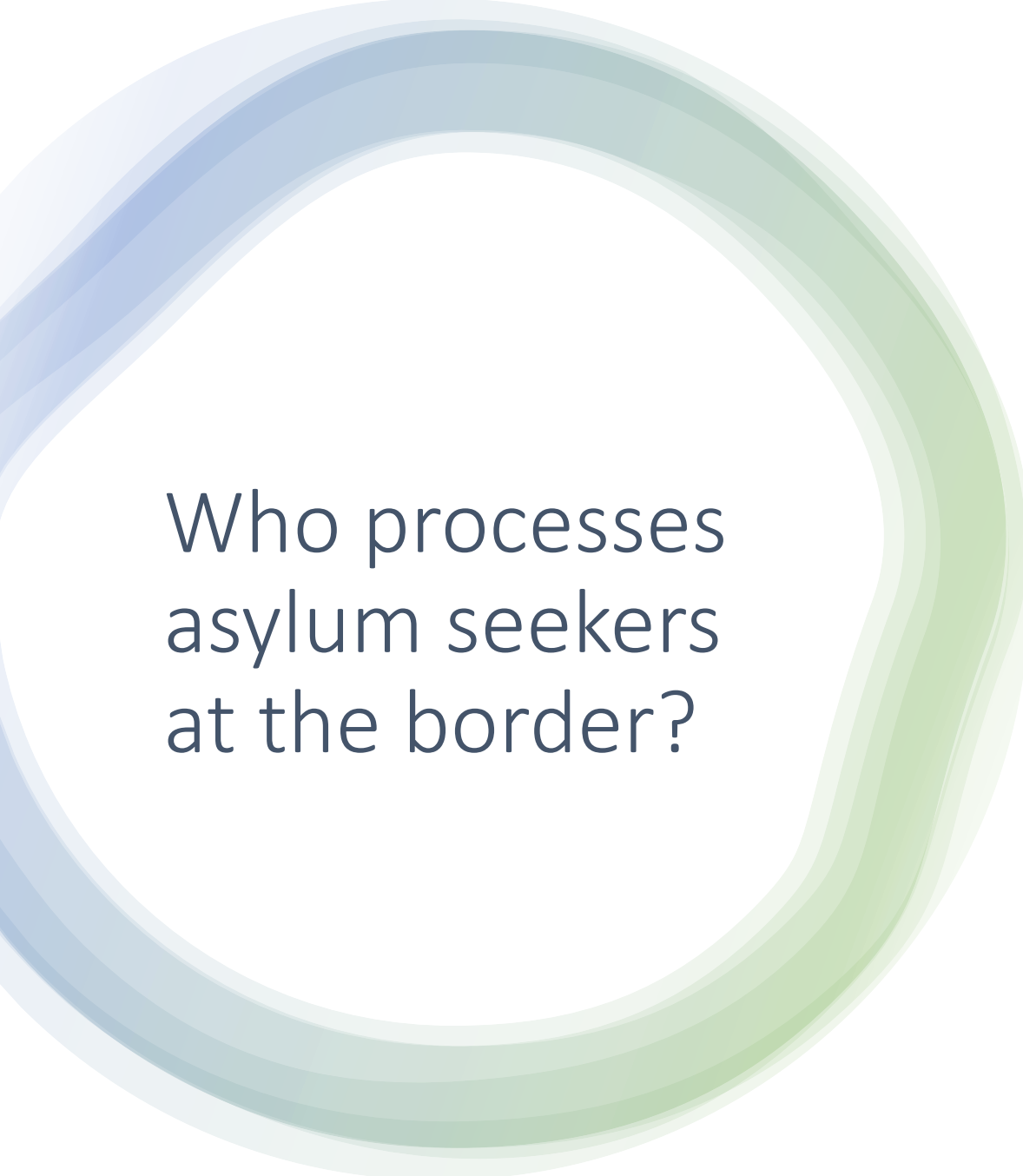


Presented by  
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Directing Attorney  
Jewish Family Service of  
San Diego



# Training Outline

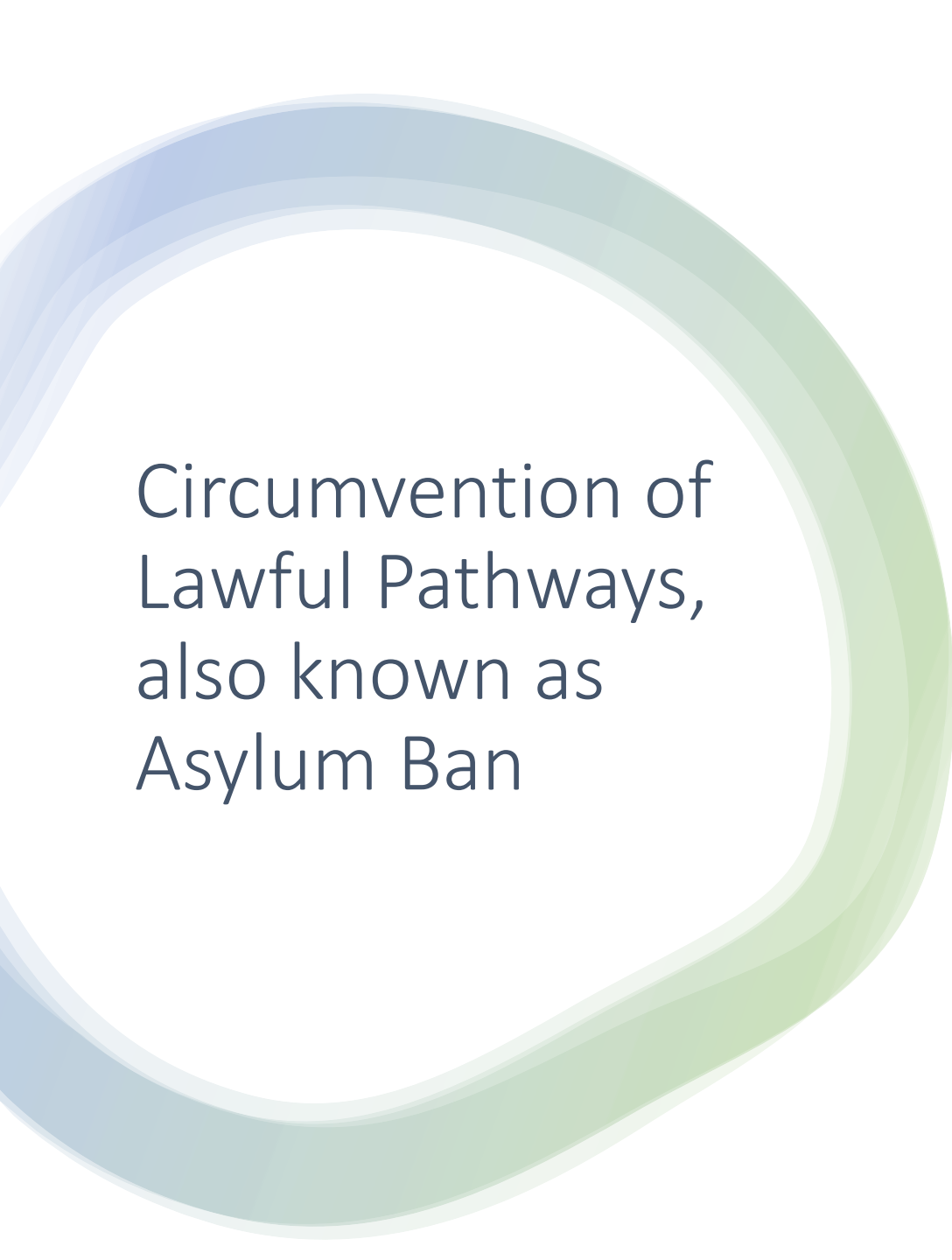
- Disclaimer: this training is intended for employees and volunteers of migrant shelters that are part of the Border Shelter Network. This training is an overview and may not provide all the information needed to provide direct legal representation to immigrants.
- Who processes asylum seekers at the U.S.-Mexico border?
- Update: Circumvention of Lawful Pathways policy, also know as asylum ban
- Parole for immigrants processed using CBP One application
- Shelter guests no longer going to point of contact they provided immigration
  - Change of address
  - Change of venue
- What are the next steps to seek asylum?
  - Initial court hearing
  - Filing for asylum
  - Final asylum hearing
  - Applying for a work permit



Who processes  
asylum seekers  
at the border?


The following DHS agencies  
process migrants at US  
borders:

- CBP - Customs and Border Protection
  - BP – Border Patrol
  - OFO – Office of Field Operations
- ICE - Immigration and Customs Enforcement
  - ERO - Enforcement and Removal Operations




## Circumvention of Lawful Pathways, also known as Asylum Ban

- This policy limits access to asylum for anyone who presents at a port of entry at the U.S.-Mexico border without a visa or a pre-scheduled appointment, enters without inspection between ports of entry or who is apprehended in contiguous waters.
- On May 16, 2023, the Biden administration published the final version of this policy.
- Rule is effective starting on May 11, 2023.
- Applies to immigrants who entered the U.S. between May 11, 2023 and May 11, 2025



# What is considered a “lawful pathway”?

- Entering with a visa
- Humanitarian parole
  - Cuban, Haitians, Nicaraguan, and Venezuelans (CHNV)
- Pre-scheduled appointment using CBP One application
  - Issues reported obtaining appointments using CBP One application




Who is going to be affected by this policy?

- Immigrants who present at the port of entry without an appointment
- Immigrants who enter the port of entry via the car lines (it happens in some ports of entry)
- Immigrants who entered without inspection
- The policy will apply to people who entered between May 11, 2023 and May 11, 2025, even if their asylum applications are adjudicated after the policy expires on May 11, 2025.



## Who is exempted from this policy?

- Unaccompanied children
- Mexican citizens
- Immigrants who enter with parole
- Immigrants who present at a port of entry with a CBP One appointment
- Immigrants who present at a port of entry who can prove that they were unable to access the CBP One application to schedule an appointment
- Immigrants who applied and were denied asylum in another country when they were en route to the U.S.



# Rebuttable presumption


- The policy has a rebuttable presumption for immigrants who are subject to this policy.
- Immigrant must show “exceptionally compelling circumstances” at the time of entry.
- There are three “per se” exceptionally compelling circumstance that are assessed on a case-by-case basis.
  - Medical emergency
    - “faced an acute medical emergency”
  - Imminent and extreme threats
    - “faced an imminent and extreme threat to life or safety, such as an imminent threat of rape, kidnapping, torture, or murder.”
  - Severe trafficking victim
    - Meets the definition of severe form of trafficking in persons
- Immigrants can rebut the presumption during a credible fear interview, and the standard applied is a “significant possibility”





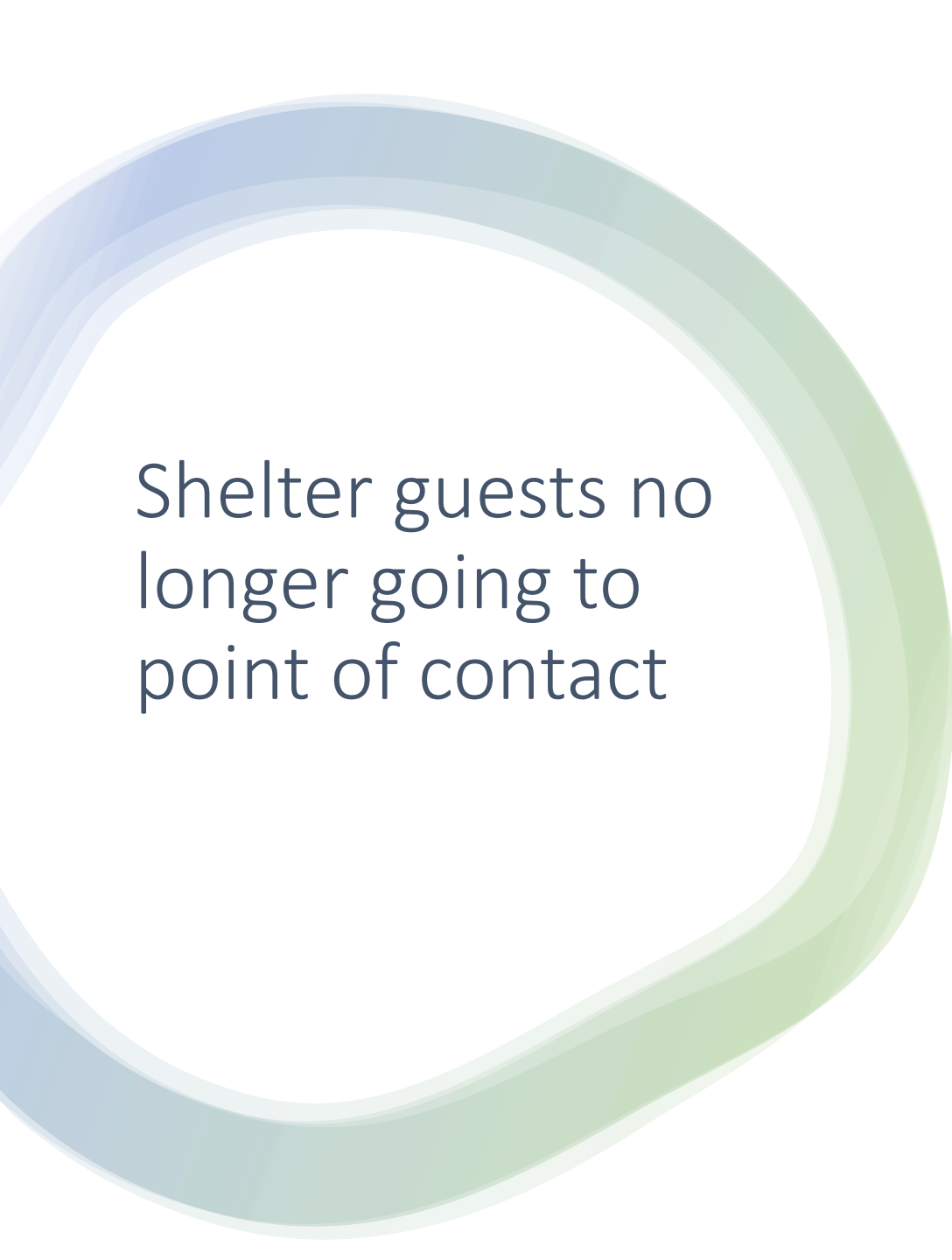
# Fear Interviews

- First, the asylum officer must determine if the immigrant is subject to this policy.
- Second, whether they meet the relevant fear standard.
- Those who meet the exception to the rule or rebut the presumption, will receive a credible fear interview, which applies the “significant possibility” standard for asylum eligibility.
- Those who do not meet the exception or rebut the presumption will be screened under the “reasonable possibility standard” that they will be persecuted or tortured.
- Immigrants who pass the interviews will be placed in removal proceedings.
- Immigrants who do NOT pass the interview have the possibility to have the immigration judge review the fear interview denial. Immigrants must indicate that they are requesting the immigration judge review.
- If the immigration judge agrees with the denial determination from asylum officer, then the immigrant may be deported from the United States.



## Parole for immigrants processed using CBP One application

- It is important to note that currently most immigrants who are processed after scheduling an appointment using CBP One are receiving parole for 2 years.
- Immigrants may receive a physical form I-94 or electronic I-94 that they can download from CBP website at <https://i94.cbp.dhs.gov/I94/#/home>
  - If you need to provide people a step-by-step process on how to retrieve this document, you can reach out to me and I can share our resource.
- Immigrants who received this type of parole can apply for a work permit. It is recommended they file for it immediately as a work permit granted will expired on the date parole expires.
- There is a fee to apply for work permit, unless immigrant is eligible to apply for a fee waiver and the fee waiver is granted.




## Shelter guests no longer going to point of contact

- Sometimes you may find yourself in situations where some of your guests may no longer be able to go to the point of contact that they provided to immigration. What do they need to do?
  - Change of address
    - Immigration (ICE)
    - Immigration Court
  - Change of venue



# Change of Address with Immigration (ICE)

- Your guests will have to change their address with immigration (ICE) and immigration court.
- To change address with immigration (ICE), your guests will have to reach out to the ICE office with jurisdiction over the address the guests provided to immigration.
  - You can find the office locations at <https://www.ice.gov/contact/field-offices>. You must search for the state and Office of Enforcements and Removal Operations.
  - ICE announced the creation of an online platform to change address. As of the date of this presentation, that system is not in place yet. If the guest is not scheduled for ICE check ins, then you can mail a change of address form, which you can find at <https://www.justice.gov/eoir/form-eoir-33-eoir-immigration-court-listing>
  - Guests who have ICE check ins, will have to communicate with office listed on their paperwork because the ICE office has to authorize the change of address. You also want to make sure the guest does not miss an ICE check in.
    - I recommend sending an email to the email address you find on the ICE office locator explaining the situation if you have issues communicating with that office. We have had some success.
    - The other recommendation is scheduling or present at an ICE office closest to the place where the guest is located. Most ICE offices required you to schedule an appointment online at <https://www.ice.gov/check-in>.



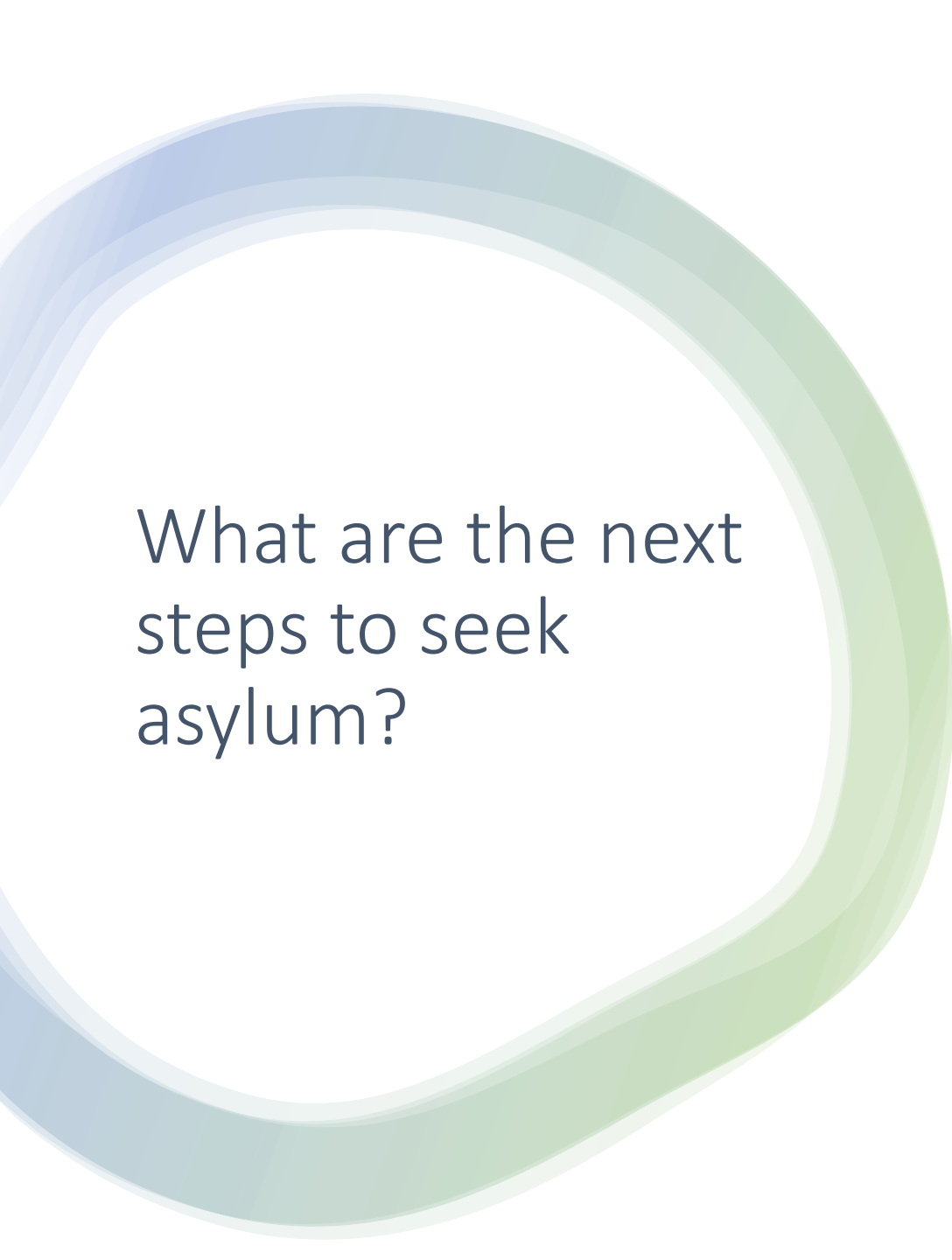
## Change of Address with Immigration Court

- In addition to changing address with immigration, guests will have to change their address with immigration court. It is important for guests to understand that immigration (ICE) and immigration court are separate agencies that need to be notified of a change of address.
- Immigration court has an online change of address. You can find that at <https://respondentaccess.eoir.justice.gov/en/forms/eoir33ic/>.
  - This system is available in English, Spanish, Chinese, Portuguese, Haitian Creole, and Punjabi.
  - Guests will have to send a copy of this change of address to the Office of the Principal Legal Advisor (part of ICE). The online system should list the address. You can also find the office in the same page where you locate ICE offices. You need to search for the correct office and select the state where the immigration court listed on notice to appear is located.
  - Please note that some cases may not be active right away with immigration court. If for some reason the court rejects the change of address, guests should try again when the case is active. It is important to still try to change address even if they do not know if the case is active yet with the court because it serves as proof that they attempted to change their address.



# Change of Venue

- Guests that change their address may also need to change venue with immigration court if their new address is in another location far from the previous address or the immigration court assigned. You can find the location of the immigration court by looking at the notice to appear. The court address is at the bottom of the first page of the notice to appear.
- The notice to appear will also have a hearing date. It is important for immigrants to attend all hearings even if they are not showing up on the immigration court's online or phone systems. Some notices to appear may be filed the date of the hearing.
- The change of venue must be done in writing or by requesting it in person at a court hearing. The judge must approve the change of venue. If it is not approved by the judge or the judge has not made a decision, the guest has to show up to the hearing to avoid receiving a deportation order for not attending hearing.



# What are the next steps to seek asylum?

- Initial court hearing
  - At the initial court hearing, the judges may read the rights and ask immigrants if they have an attorney. Some judges may ask if they want more time to find an attorney to those that do not have one. Other judges may not do that, but immigrants can always speak for themselves and ask for time to find an attorney.
  - The immigration court will usually grant time to find an attorney at the first hearing. If this happens, there will be more preliminary hearings (known as Master Calendar Hearing (MCH)) until they reach the stage of taking pleadings. Pleadings requires immigrants to state if what is included in the notice to appear (charging document) is correct. This document is important because it is what determines if deportation proceedings will continue. If the judge finds an immigrant removable from the U.S., then the immigrant to apply for defenses for their deportation. Asylum is one of those defenses. Immigration judge will then instruct immigrant to file the asylum application in English and all documentary evidence with English translations if evidence is in another language.
- Filing for asylum
  - It is important to note that an application for asylum MUST be file before the 1-year anniversary from the last entry to the United States. If the application is not filed within that time, the immigrant may be automatically ineligible for asylum, unless they show that there were extraordinary circumstance for not filing within 1 year. Making this argument is difficult, and it is recommended to have legal counsel. Even if this happens, people may still be eligible for withholding of removal and protection under the United Nations' Convention Against Torture.
- Final asylum hearing
  - After filing for asylum, the immigration judge will schedule a final hearing. The final hearing is a trial where the immigration judge reviews the merits of the asylum application and all the evidence presented.
- Applying for a work permit
  - Immigrants with pending asylum applications may be eligible to apply for a work permit. The application for asylum needs to be pending for 150 days, and it will approve after the application has been pending for 180 days. The application needs to be filed with USCIS using form I-765. The initial application does not require a fee.
  - Please note that if the immigrant asks for a continuance of a hearing or changes venue while the application is pending the time will not count towards the required time to get the work permit.

# Q & A Session

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