AMNESTY'S CATCH 22

Half a million or more immigrants who successfully applied for "amnesty" could be denied permanent legal status because of the impossible demands of the Immigration and Naturalization Service (INS) program. Those who were granted temporary legal residency must now demonstrate minimal proficiency in English and U.S. history and civics either by taking an exam or by completing 40 hours of a 60-hour INS-certified course. But there is a drastic shortage of classes and those who haven't had English and civics instruction can't pass the test.

Existing English as a Second Language (ESL) classes were already filled to capacity before the amnesty requirements created a massive new demand. A recent study by the National Council of La Raza (NCLR) estimates that an 80 percent increase in classroom slots is needed to accomodate the 1.2 million newly legalized immigrants it calculates are in need of classes. To put those figures in perspective, NCLR notes that an unprecedented growth in ESL services over the last few years has only increased the supply by 18 percent.

In the Berkeley-Oakland area, for example, INS estimates that about 5,000 people will have been granted temporary residence by the time all applications have been processed. *The Minority Trendsletter's* preliminary survey shows that of the 5,000, under 900 are currently enrolled and about 450 are on waiting lists at various ESL/Civics programs.

In San Francisco, where the supply of ESL services is relatively high, approximately 1,000 amnesty applicants are enrolled in certified courses and 250 are on waiting lists. Gary Tom of the San Francisco Community Colleges maintains that these figures represent only about 10 percent of all eligible applicants who need to fulfill the ESL/Civics requirement before moving on to permanent resident status.

INS generally underplays the potential shortage of classes but in a study reported in *The Los Angles Times* last fall, INS estimated that 66,000 Los Angeles area amnesty applicants will not be able to find ESL slots within the time allowed. Another study by the National Association of Latino Elected Officials (NALEO) concluded that forty percent of California applicants live in suburban areas and that eight out of ten suburban districts will not be able to meet the demand for classes.

A Weed-out Tactic?

The English and civics requirement is creating confusion and frustration not only for amnesty applicants but for immigrant advocacy groups, ESL programs and instructors, educational institutions, and community organizations. Although IRCA was passed more than two years ago and the amnesty deadline was last May, the legalization program is operating under interim regulations which have already changed twice. Misinformation, delays, and inadequate resources continue to plague the program.

Some advocates fear that the ESL/Civics requirement is a weed-out tactic in disguise, designed to prevent a large portion of those eligible from finally obtaining permanent residence. In the past, English and civics knowledge were only required for citizenship and even now "legal" immigrants are not required to meet these standards. Whatever its intentions, INS has created a massive unanticipated demand for ESL services on the one hand and, on the other, made it extremely difficult, especially for community organizations and smaller programs, to meet the demand.

Photo: Cara Lise Metz, Impact Visuals

Only a fortunate few have been able to enroll in the ESL/Civics classes needed to obtain permanent legal status.

Kathy Brady of the Immigrant Legal Resource Center (ILRC) in Palo Alto points to bureaucratic hassles community organizations must undergo to be certified by the INS, especially if they haven't been in the business of providing ESL classes before. Several small church and community-based projects in the area already have been turned down by INS, she said, and others are discouraged from getting involved.

INS Deputy Director John Davis, who is responsible for certifying courses in Northern California, told *The Trendsletter* that he was negotiating with some 50 small community groups and private agencies but he would not disclose how many had been rejected and on what grounds.

In the meantime, the clock is ticking. Each applicant has to complete the English and civics requirement within a year beginning exactly 18 months from the day he or she was granted temporary residency. For some, the twelve month period has already begun. The big crunch will come toward the end of 1989 because a large proportion of applications were filed just before the May 4, 1988 deadline.

Funding Foul-ups

Even institutions that have offered English language and civic classes in the past are facing added difficulties. According to Isabella Arellano, coordinator of the amnesty program at Merritt College in Oakland, her constituency is mostly from a low-income working class background and comes to amnesty courses with "motivations that are very different from other students who come to the community college." She is worried that without special attention and services, amnesty applicants will not succeed in the required courses. Childcare, transportation to class sites, and convenient times and locations are essential, she maintained, to facilitate participation in phase two. Of course, given their limited resources, not even all agencies that are willing are actually able to provide such comprehensive services.

The most serious problem, particularly for small operations and community agencies, is funding. With the passage of IRCA, Congress established State Legalization Impact Assistance Grants (SLIAG) to help cover costs incurred by state governments in providing public health, public assistance, and educational services to eligible applicants. In California, SLIAG is in the hands of the State Department of Education but few of the agencies already providing ESL and Civics Courses have actually seen the money.

Some agencies have not been approved by SLIAG, which has it own set of criteria which is quite different from the INS criteria for certification. ADELANTE, a community development organization in Berkeley was denied funding for amnesty courses offered last spring and summer before SLIAG finally got around to certifying its program. Others which have been approved have not yet received any funding and are therefore unable to begin or expand their programs.

In any case, according to Brady, the rate of reimbursement—$2.59 per student hour of attendance—falls far short of the actual costs involved, especially for smaller agencies which haven't offered educational services in the past.

Adding to the difficulties is INS' delay in releasing final regulations governing phase two. Initial drafts required 30 hours of attendance in a 100-hour course, revised regulations in the fall changed that to 30 hours out of a 60 hour course. In early November, after some applicants presumably had completed the 30-hour requirement, modified regulations stipulated the completion of 40 hours out of a 60-hour course. ESL providers worry that more changes will be made which could throw their programs into chaos.

Amnesty applicants are, of course, hardest hit. Not only are certified classes inaccessible and often filled up, but there is very little outreach to keep them abreast of changing requirements. The application packet INS mailed out contains errors and omissions, according to Rob Paral of NALEO. It doesn't mention, for example, that certain people are exempt from the English and civics requirement, including those over age 65 or under 16, those who have a diploma from a U.S. high school or a GED, and the disabled. Although 90 percent of amnesty applicants are Spanish-speaking, INS decided it would be too expensive to produce a bilingual application packet.

The INS has $5 million for outreach during phase two but service providers are extremely skeptical of the INS' ability to keep applicants informed. Community groups and educational agencies must finance their own outreach efforts since they are not entitled to any of the $5 million nor can they use SLIAG funds for this purpose. Unlike the first stage of the program when some community agencies were reimbursed for helping people through the application process, there is no similar provision in phase two to help them fill out their applications for permanent residency. Without free help available, Gary Tom predicts that many people will be paying up to $600 in attorney fees to ensure that their paperwork is done correctly.

Small Change

For those who cannot get into classes or who choose to take the test instead, changes in INS policy may make things somewhat easier. Immigrant advocates have long argued that the citizenship test, which was to be used in the amnesty program as well, is too difficult and too open to abuse. INS examiners have been known to fail applicants for not being able to sing the Star Spangled Banner or not knowing who won the 1966 World Series. In response to pressure, INS is now offering amnesty applicants several different test-taking options.

According to NALEO, there is still a verbal test administered by an INS examiner but the examiner has to choose from 100 standard questions. Applicants also may take a written multiple choice test, either at a Legalization Office or, starting February 1, at community sites, including some Catholic Church and farmworker agencies.

Another important change is that the written tests can be taken repeatedly without penalty. Only two tries are allowed on the verbal test before the INS examiner. The written tests, however, require a moderate degree of English literacy while most amnesty applicants have only limited education even in their first language. A study by the American Public Welfare Association concluded that a majority of applicants have no more than three to six years of primary school education.

INS interoffice memos suggest that about 10% of applicants will be helped by the changes in testing, an estimate Paral considers "in the ballpark." "It's not going to help a lot of people," he said. "The availability of classes is still critical."

--Somini Sengupta

Sources:

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