

Executive Office for Immigration Review  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

May 13, 2019

## REJECTED “FACT SHEET”

### NOTICE TO EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)

This notice is to inform you that the “fact sheet” you published in May 2019 is being rejected for the reasons given below. ***In adjudicating cases, please refer to the Constitution, Immigration and Nationality Act, and Code of Federal Regulations to ensure due process in all cases.***

#### **Documents being rejected: “Myths vs Facts about Immigration Proceedings”**

- ✘ Improper Role for an Impartial Adjudicator:** The role of EOIR is “to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation’s immigration laws”—not to produce “fact sheets” skewed against individuals appearing before the agency’s immigration judges, who are not independent federal judges but employees of the Department of Justice who report to the Attorney General.
- ✘ Appearance of Bias:** An independent court would not publish a “fact sheet” on a group of petitioners that insinuates their cases lack merit and minimizes the importance of due process. Yet EOIR has done just that—suggesting that many asylum applications lack merit, characterizing legal orientation programs which provide crucial information to unrepresented immigrants as dragging out proceedings and using up financial resources, and defending the use of video-teleconferencing hearings in the face of legitimate due process concerns.
- ✘ Incorrect “Facts”:** EOIR’s “fact sheet” contains numerous distorted claims about asylum adjudication, including contentions Human Rights First previously [debunked](#). In reality:
  - Between fiscal years 2008 and 2018, **immigration judges on average approved over 40 percent of asylum applications** according to figures from the [Department of Justice](#).
  - Many asylum seekers are unable even to file applications because they cannot find attorneys to assist them in filling out the 12-page form in English, filing it with the immigration court, or serving a copy on the government’s attorney.
  - **Asylum seekers with attorneys were four times more likely to win asylum than those appearing in immigration court pro se in 2018** according to [data](#) from Syracuse University TRAC. A [study](#) by the Government Accountability Office confirms that legal representation has a “significant effect on the outcome of [asylum] application[s].”
  - Asylum applicants overwhelmingly attend court hearings. A 15-year [study](#) by the American Immigration Council found that **96 percent of asylum-seeking families released from detention attended all of their immigration court hearings.**



## EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

### MYTHS vs FACTS ABOUT IMMIGRATION PROCEEDINGS

MAY 2019

- MYTH:** Most aliens who claim a fear of persecution in expedited removal proceedings have meritorious asylum claims.

**FACT:** Out of every 100 credible fear claims, on average, only about 12 result in a grant of asylum by an immigration judge.
- MYTH:** Most aliens who claim a credible fear of persecution are asylum seekers.

**FACT:** On average, at least half of aliens who make a credible fear claim and are subsequently placed in removal proceedings do not actually apply for asylum.
- MYTH:** There is wide discrepancy in asylum grant rates across all immigration courts.

**FACT:** The median asylum grant rate for all immigration courts is eleven percent (11%). Eighty percent (80%) of immigration courts, 50 out of 62, have a grant rate of twenty-one percent (21%) or lower. Only 12 out of 62 courts have grant rates more than ten percent (10%) above the median grant rate. Only 1 out of 62 courts has a grant rate above fifty percent (50%).
- MYTH:** Few aliens fail to attend their immigration court proceedings.

**FACT:** Forty-four percent (44%) of all non-detained removal cases end with an *in absentia* order of removal due to an alien's failure to attend a scheduled immigration court hearing.