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Dems Slam DOJ On Due Process Protections For Immigrants

By Kevin Penton

Law360 (April 18, 2018, 3:16 PM EDT) -- Democrats on the House and Senate Judiciary committees in a letter Tuesday urged the U.S. Department of Justice to back off on its recent moves to set performance quotas for immigration judges and to terminate the Legal Orientation Program, saying the agency is tearing down due process protections for immigrants.

The Democrats criticized the DOJ's move to require judges to complete 700 cases annually and remand less than 15 percent of cases in order to have satisfactorily met their job expectations, saying the judges are being asked to place speed above thoroughness or reasoned judgment.

"Forcing judges to choose between job security and thoroughness is a direct threat to due process," the letter reads. "It is bad policy, and it is not a choice that any judge should have to make."

The Democrats also pushed back on the possibility of the DOJ **terminating the LOP**, which connects immigrants with legal services organizations that may provide the individuals with basic information about the immigration legal process. They noted that a DOJ study in 2012 determined that the LOP saved the federal government \$18 million over a three-year period.

"This department study demonstrates that our immigration system operates more efficiently when immigrants, who have no government appointed counsel, are provided with basic information about the court process and their rights," the letter reads.

DOJ officials could not immediately be reached for comment on Wednesday.

In late March, the DOJ's Executive Office of Immigration Review **released six benchmarks** related to case completion and adjudication of motions, three of which would have to be met — in addition to the other requirements — for immigration judges to achieve a satisfactory performance rating. For example, an immigration judge must not allow more than three days to elapse between a merits hearing and case completion in at least 85 percent of removal cases involving individuals who do not have status and are detained.

A fact sheet outlining the new guidelines indicates that the case quotas are meant to

encourage immigration judges to make "rulings and decisions in a timely manner, consistent with available resources" and manage their "calendar efficiently, monitoring pending caseload as needed."

The LOP has served more than 50,000 individuals annually in 38 detention centers nationwide. The DOJ will terminate funding for the program by April 30, pending a cost-benefit analysis, according to the Vera Institute and the American Bar Association.

--Additional reporting by Nicole Narea. Editing by Stephen Berg.

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