



## Tip of the Month October 2020

### The Liberian Refugee Immigration Fairness Act: Time to Apply is Running Out!

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On December 20, 2019, the president signed the Liberian Refugee Immigration Fairness Act (Section 7611 of the National Defense Authorization Act for Fiscal Year 2020), also known as the LRIF, providing a way for Liberians to obtain a permanent legal status in the United States. However, as of April 17, 2020, only about 10 percent of estimated potential eligible Liberians and family members had filed applications, and only one application was approved. Of these applications, Minnesota had the largest number of applicants of any single state at 214. Higher numbers were expected for Minnesota given that Minnesota is home to the largest Liberian community in the United States, numbering about 30,000.

The December 20, 2020 deadline to properly file the LRIF application is firm, thus, it is imperative that all potential applicants know about this opportunity and obtain the legal information and help they need to apply. Not everyone will be eligible – some may need to remedy other issues first, and all applicants will need time to gather sufficient documentation to prove eligibility. Interested people should seek immediate comprehensive and competent legal screening.<sup>1</sup>

Reports from local immigration practitioners confirm that the number of applicants is lower than anticipated; the application requirements go beyond what the plain language of the Act, standard practice and federal regulations require, and the adjudication process is slow. Further complicating the application process: as of October 2, 2020, low-income applicants no longer have an option to request a fee waiver and may find it difficult to raise sufficient funds to apply under LRIF; and the application time period falls squarely during the COVID-19 pandemic.

Of particular concern is the evidentiary standard applied in the adjudication process. For example, to be eligible, an applicant must show they are a Liberian national. In the past and for other immigration programs preceding LRIF, as proof of nationality the United States Citizenship and Immigration Service (USCIS) accepted: a birth certificate with photo I.D., a Liberian passport, a national identity card, official travel documentation issued by the Liberian government, and certain forms of secondary evidence. In its adjudication of LRIF applications, however, USCIS has narrowed the acceptable proof of nationality to **only** unexpired Liberian passports or certificates of naturalization, going beyond even its own evidentiary requirement as stated in the Form I-485, special instructions for LRIF applicants.

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<sup>1</sup> The eligibility requirements under LRIF include:

1. Is a Liberian national;
2. Has been continuously physically present in the U.S. since November 20, 2014;
3. Or is the spouse or unmarried son or daughter of a qualified applicant no matter country of origin;
4. Is admissible or eligible for a I-601 waiver;
5. Has not been convicted of a crime considered an “aggravated felony;”
6. Has not been convicted of two or more crimes involving “moral turpitude;” and,
7. Has not ordered, incited, assisted or otherwise participated in the persecution of any person on account race, religion, nationality, membership in a particular social group, or political opinion; and, those

This new standard has stopped the adjudication process for many applicants who are now required to submit unexpired passports or face a denial. Until recently, the only option to obtain an unexpired passport was to make an in-person application at the Liberian Embassy in Washington, D.C. or New York, which was financially difficult for many, and impossible for others given COVID-19 restrictions.

Fortunately, for those Liberians living in Minnesota and surrounding states, Minneapolis is home to an honorary Liberian Consulate that is now accepting and processing expedited passport applications for \$205.

To obtain an unexpired passport, and to preserve the record in case that is not possible, practitioners should:

1. [Contact the local honorary Liberian consulate](#) (its service is Minnesota, North and South Dakota) to begin the passport application process as soon as possible.
2. Document the applicant's attempts to obtain a valid passport and/or their inability to do so (e.g. through a client affidavit, correspondence with the Embassy).
3. Gather other evidence of nationality (e.g. birth certificate, expired passport, national ID card, Voter ID card, birth affidavit from Liberian Embassy, prior USCIS/DHS determinations regarding nationality, etc.).
4. Challenge the narrow "valid passport" requirement (e.g. it violates the LRIF, the APA, and using a collateral estoppel argument where there has been a prior DHS/EOIR determination that the applicant is a Liberian national).
5. Watch out for, or join, litigation on this issue.

After the application is filed, an applicant may be scheduled for an interview with USCIS. Practitioners should keep in mind that:

1. There may be special COVID-related restrictions for in-person interviews that vary by USCIS office. Locally, attorneys may be in a separate room viewing the interview by video.
2. The USCIS official will scrutinize admissibility and eligibility issues, in particular for those applicants who also have filed past asylum applications (e.g. family, marriages, entries, connection to the civil conflict in Liberia and past governments, etc.).

For practitioners facing the proof of nationality issue or other issues, keep in mind that unless Congress extends the deadline, applications must be properly filed by December 20, 2020. To preserve eligibility under LRIF, applicants may face difficult decisions: should I apply to preserve my eligibility even though my application is not complete according to current USCIS adjudicatory standards and, thus, risk a possible denial that could result in placing me in removal proceedings before an immigration judge? Practitioners will need to help applicants understand and weigh these risks and benefits.

With the December 20 deadline looming, we must spread the word that potential applicants get screened immediately. Local legal aid offices are working with community organizations to provide free LRIF screenings and referrals. Applicants may [sign up online for a free screening by clicking here](#).

VLN provides screening, advice, referral and full representation placement with pro bono counsel for LRIFA cases. If you would like to represent a LRIF applicant pro bono, contact Colleen Beebe Purisaca at [colleen@vlmn.org](mailto:colleen@vlmn.org).

For more background on the LRIF see the Volunteer Lawyers Network March 2020 Tip of the Month, [No More Living in Limbo: the Liberian Refugee Immigration Fairness Act \(LRIFA\)](#).

**Sources:**

*Failing Our Liberian Neighbors: Eligibility and Application Rates Under Liberian Refugee Immigration Fairness*, The Temporary Projected Status Advocacy Working Group (CLINIC) & African Communities Together, June 2020.

*Liberian Refugee Immigration Fairness Cases: Proving Liberian Citizenship or Nationality and other RFE Issues*, PowerPoint, Anne Carlson, August 27, 2020.