

**From:** (b)(6)-(b)(7)(C)  
**To:** OPLA HQ Personnel; OPLA Field Personnel  
**Subject:** Broadcast Message: Implementing Matter of L-E-A-, 28 I&N Dec. 304 (A.G. 2021), and Matter of A-B-, 28 I&N Dec. 307 (A.G. 2021)  
**Date:** Thursday, June 24, 2021 2:17:28 PM

---

**\*\*\*PRIVILEGED\*\*\*ATTORNEY WORK PRODUCT\*\*\*FOR OFFICIAL USE  
ONLY\*\*\*NOT FOR DISSEMINATION OUTSIDE OPLA\*\*\***

*Disseminated on behalf of Ken Padilla and Adam V. Loiacono . . .*

On June 16, 2021, Attorney General (AG) Garland issued *Matter of L-E-A-*, 28 I&N Dec. 304 (A.G. 2021) (*L-E-A- III*), and *Matter of A-B-*, 28 I&N Dec. 307 (A.G. 2021) (*A-B- III*).

This is the third precedential opinion in *L-E-A-*. The Board of Immigration Appeals (Board) initially held that the immediate family of the respondent’s father qualified as a particular social group (PSG) for purposes of asylum and withholding of removal. 27 I&N Dec. 40, 42-43 (BIA 2017) (*L-E-A- I*). AG Barr later held that, “in the ordinary case, a nuclear family will not, without more,” qualify as a PSG and accordingly overruled the Board and abrogated all other Board precedents that were inconsistent with his decision. 27 I&N Dec. 581 (A.G. 2019) (*L-E-A- II*). In *L-E-A- III*, AG Garland stated that the analysis in *L-E-A- II* is inconsistent with decisions of several courts of appeals and that current ongoing rulemaking addressing the meaning of “particular social group” is the preferable administrative process for addressing the issue. AG Garland therefore concluded that *L-E-A- II* should be vacated in its entirety, returning to the preexisting state of affairs pending completion of the ongoing rulemaking process. He further instructed that, pending completion of ongoing rulemaking efforts, immigration judges and the Board should no longer follow *L-E-A- II* when adjudicating pending and future cases.

This is also the third precedential opinion in *A-B-*. In *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018) (*A-B- I*), AG Sessions overruled *Matter of A-R-C-G-*, 26 I&N Dec. 388 (BIA 2014), in which the Board had recognized, depending on the facts and evidence in an individual case, that “married women in Guatemala who are unable to leave their relationship” qualified as a cognizable PSG for purposes of asylum and statutory withholding of removal. Acting AG Rosen later reviewed a subsequent Board decision in the same case to provide additional guidance on recurring issues involving asylum applicants who raise claims of persecution by non-governmental actors on account of membership in a PSG. 28 I&N Dec. 199 (A.G. 2021) (*A-B- II*). In *A-B- III*, AG Garland vacated his predecessors’ decisions in *A-B- I* and *A-B- II*. In so doing, he indicated that he was leaving open the questions that those opinions sought to resolve in order to “ensure that the Departments [of Justice and Homeland Security] have appropriate flexibility in the forthcoming rulemaking.” 28 I&N Dec. at 308. Accordingly, he directed immigration judges and the Board to no longer follow *A-B- I* or *A-B- II* and instead, pending completion of ongoing rulemaking efforts, to follow pre-*A-B- I* precedent, including *Matter of A-R-C-G-*.

(b)(5)

Impact on Prior Guidance

(b)(5)

(b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

- (b)(5)

(b)(5)

- (b)(5)

- (b)(5)

(b)(5)

• (b)(5)

**This message includes internal guidance provided for internal OPLA use only and is not intended for public disclosure. Please ensure that it is treated consistent with applicable guidance. If there are any legal questions about this guidance, please do not hesitate to reach out to ILPD (ILPD-E or ILPD-W), as appropriate.**

Thank you,

Ken Padilla  
Deputy Principal Legal Advisor for Field Legal Operations  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security

Adam V. Loiacono  
Deputy Principal Legal Advisor for Enforcement and Litigation  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security

**\*\*\*PRIVILEGED\*\*\*ATTORNEY WORK PRODUCT\*\*\*FOR OFFICIAL USE  
ONLY\*\*\*NOT FOR DISSEMINATION OUTSIDE OPLA\*\*\***