

DEPARTMENT OF HOMELAND SECURITY
United States Citizenship and Immigration Services
595 Ala Moana Boulevard
Honolulu, Hawaii 96813

STATEMENT OF WAIVER OF REPRESENTATION

I hereby waive the presence of my attorney, _____,
at this interview on _____ regarding my application
for _____.

I understand that I may ask that the interview be terminated at any time, and
rescheduled so that I may be interviewed with my attorney present.

Signature

Witness

Date

**Record of Sworn Statement
Waiver of Appearance of Attorney**

Department of Homeland Security
U.S. Citizenship and Immigration Services

A# _____

Before Officer _____, of United States Citizenship and Immigration Services, in the

English language Spanish language _____ language by the Officer, and/or

_____ language as translated by an interpreter.

I, _____, acknowledge that the above named officer has identified himself/herself to administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. He/she has informed me that he/she desires to take my sworn statement regarding my waiver of appearance of my attorney. He/she has told me that my statement must be made freely and voluntarily. I am willing to make such a statement. I swear or affirm that I will tell the truth, the whole truth, and nothing but the truth, so help me God.

Being duly sworn, I make the following statements:

Q: What is your true, full, and complete name?

A: _____

Q: What is the full name of your attorney?

A: _____

Q: Why is your attorney not present?

A: _____

Q: Do you want to proceed with the interview without your attorney present?

A: _____

I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I solemnly swear or affirm that I have been informed of my rights to be represented by my counsel of choice, and at my own expense and fully understand the same, herewith waive said right and request to proceed without counsel.

Signature of **Petitioner,
Beneficiary, or Applicant**
(Circle one)

Signature of **Interpreter**

Signature of **Witness**

On _____ sworn and subscribed before me, _____
Signature of USCIS Officer

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



**U.S. Citizenship
and Immigration
Services**

May 23, 2012

PM-602-0055.1

Policy Memorandum

SUBJECT: Representation and Appearances and Interview Techniques; Revisions to
Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Purpose

This policy memorandum (PM) provides guidance regarding representation and appearances and interview techniques in certain application and petition proceedings before USCIS.

Scope

This PM applies to the adjudication processes of the Field Operations and Service Center Operations Directorates and the International Operations Division of the Refugee, Asylum, and International Operations Directorate. This PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, parts 1(a), 1(b)(2), 2-4, and adds new Appendix 12-1. This PM does not apply to the Asylum Division or the Refugee Affairs Division of the Refugee, Asylum, and International Operations Directorate or site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

Authority

Section 292 of the Immigration & Nationality Act
8 CFR 1; 103; 292

Introduction

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the integrity of the immigration system. This goal is furthered when USCIS adjudicators recognize the range of individuals who may represent applicants and petitioners, respect the relationship between client and representative, and conduct interviews professionally. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and other representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews. This policy memorandum provides guidance for appearances and interview techniques in application and petition proceedings before USCIS; however, it does not apply to asylum or refugee processing procedures or site visits conducted by the Fraud Detection and National Security Directorate, for which specific guidance exists. In the refugee processing context, among other differences in

interviewing procedures, refugee applicants do not have the right to representation as such applicants are deemed to be applicants for admission.¹

Background

An applicant or petitioner for immigration benefits may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.²

Prior to 1994, the regulations governing the adjudication of applications and petitions (8 CFR 103.2) did not include provisions specifically addressing the representation of applicants and petitioners during such proceedings. In 1991, the Immigration and Naturalization Service (“Service”) proposed amending the regulations at 8 CFR 103.2 to provide that an applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.³ The Service proposed limiting the categories of eligible representatives in application and petition proceedings from the “broad range” of representatives listed in 8 CFR 292.1. Moreover, in order to properly document representation, the Service proposed revising 8 CFR 292.4(a)(4) to require that an applicant or petitioner sign the notice of appearance in order to authorize representation before the Service.⁴ In adopting these changes in a final rule in 1994, the Service determined that the reasons cited in the supplemental information in the proposed rule supported requiring the signature of the applicant or petitioner on the G-28, and that this was also a way to help combat the unauthorized practice of law by ineligible individuals.⁵ This final rule included the language in 8 CFR 103.2(a)(3) that exists today⁶ and added to 8 CFR 292.4 the requirement that the notice of appearance form be signed by the applicant or petitioner in order to authorize representation before the Service.⁷

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in

¹ Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Furthermore, the Department of State (DOS) is responsible for scheduling refugee applicants for an interview with USCIS, and therefore, interview notifications and rescheduling policies for refugee applicants are governed by DOS procedures.

² 8 CFR 103.2(a)(3) (2011)

³ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 56 Fed. Reg. 6120161202 (proposed Dec. 2, 1991) (to be codified at 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁴ Id.

⁵ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 59 Fed. Reg. 1455 (Jan. 11, 1994) (amending 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁶ Id. at 1460.

⁷ Id. at 1466.

8 CFR 103.2(a)(3).⁸ The change reinforced the policy that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not file a G-28 in application and petition proceedings before USCIS, and notification regulations do not apply to them.

Policy

Effective immediately, USCIS Officers in the Field Operations and Service Center Operations Directorates and the International Operations Division of the Refugee, Asylum, and International Operations Directorate will follow the instructions contained in Chapter 12 and 15 of the *AFM* as amended by this PM.

⁸ Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances, 75 Fed. Reg. 5225, 5227 (Interim rule with request for comments Feb. 2, 2010) (amending 8 CFR 1 and 292)

Implementation

The *AFM* is revised as follows.

1. Revise the Table of Contents for Chapter 12 to read:

Chapter 12 Representation and Appearances

- 12.1 Representation before USCIS
- 12.2 Appearances before USCIS
- 12.3 Proper Service of Documents and Notices
- 12.4 Interviews
- 12.5 Rules of Professional Conduct for Practitioners
- 12.6 The Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process¹

References

Section 292 of the INA
8 CFR 103 and 292

2. Revise Chapter 12 to read:

Chapter 12: Representation and Appearances

Chapter 12.1 Representation before USCIS

(a) General

An applicant or petitioner may be represented in matters filed with USCIS.² Whenever an examination is provided for under the regulations, the person involved has the right to be represented by an attorney or representative before USCIS.³

¹ The Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process; Revisions to the *Adjudicator's Field Manual*, New Chapter 12.6, *AFM* Update AD 11-34. Interim Memo for Comment, PM 602-0039 (June 7, 2011).

² 8 CFR 103.2(a)(3) (2011)

³ 8 CFR 292.5(b) (2011). Refugee applicants do not have the right to representation, as such applicants are deemed to be applicants for admission. Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Accordingly, this guidance does not apply to the Refugee Affairs Division or the Asylum Division of the Refugee, Asylum, and International Operations Directorate, which are governed by other established procedures, guidance, and lesson plans. This guidance does not apply to site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

Title 8 CFR 292.1 lists the categories of individuals who may represent a "person entitled to representation" before DHS, "subject to the limitations in 8 CFR 103.2(a)(3)." An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.⁴ Only these categories of representatives may file a notice of appearance on Form G-28 or G-28I in an application or petition proceeding before USCIS.

Law students and law graduates may engage in practice⁵ and preparation⁶ under the requirements described in the regulations⁷ but may not be the official representative of record on Form G-28. USCIS provides notices in writing to the supervising attorney or accredited representative identified as the representative on the Form G-28. Law students and law graduates may attach a statement with the information required in 8 CFR 292.1(a)(2) to the Form G-28 filed by their supervising attorney or accredited representative, or in person at a USCIS office. A law student or law graduate who has filed the required statement in a case may communicate with USCIS in writing. Substantive filings require the signature of the supervising attorney or accredited representative. See section 12.1(e) for additional information.

Reputable individuals and accredited officials may assist a person entitled to representation before USCIS. Unless otherwise licensed to do so, reputable individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office. These individuals may not file a Form G-28. They must provide a written declaration to the USCIS official before whom they seek to appear, and may participate in the interview process only if that official permits their appearance. The original of this written declaration is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding. An accredited official of the government to which an applicant or petitioner owes allegiance may appear at an interview solely in his or her official capacity and only with the applicant's or petitioner's consent.⁸ See section 12.1(f) for additional information.

USCIS does not provide notices in writing to reputable individuals or accredited officials.⁹

(b) Attorneys in the United States

An "**attorney**" is any person who is eligible to practice law in and is a member in good

⁴ 8 CFR 103.2(a)(3) (2011)

⁵ 8 CFR 1.2

⁶ 8 CFR 1.2

⁷ 8 CFR 292.1(a)(2) (2011)

⁸ 8 CFR 292.1(a)(5) (2011)

⁹ *Id.*

standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.¹⁰

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹¹

(c) Attorneys outside the United States

An "**attorney outside the United States**" is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹²

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States" (Form G-28I) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹³

(d) Accredited Representatives

An "**accredited representative**" is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) and has been accredited by the BIA to represent others in immigration proceedings before the immigration courts and the BIA of the Executive Office for Immigration Review and/or DHS.¹⁴

¹⁰ 8 CFR 1.2 (2011)

¹¹ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹² 8 CFR 292.1(a)(6) (2011)

¹³ 8 CFR 292.4(a) (2011); Instructions for Form G-28I (04/22/09)

¹⁴ 8 CFR 292.1(a)(4) & 8 CFR 292.2

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and/or DHS at www.justice.gov/eoir/legalrepresentation.htm. Accredited representatives who are listed as "partially accredited" are authorized to practice only before DHS.
- Accredited representatives must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁵

(e) Law Students and Law Graduates not yet admitted to the bar

Law students who are enrolled in an accredited U.S. law school and **law graduates** of an accredited U.S. law school who are not yet admitted to the bar may engage in practice¹⁶ and preparation,¹⁷ constituting representation¹⁸ under supervision as required in 8 CFR 292.1(a)(2).

- The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in application and petition proceedings before USCIS.
- A **law student** enrolled in an accredited U.S. law school must file a statement that he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization and is appearing without direct or indirect remuneration from the individual he or she represents.¹⁹
- A **law school graduate** of an accredited U.S. law school who is not yet admitted to the bar must file a statement that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.²⁰
- The statement from the law student or law graduate may be attached to the Form G-28 filed by the supervising attorney or accredited representative, or submitted in person at a USCIS office. (See Sample Statement in Appendix 12-1.)
- Law students and law graduates must seek permission from the DHS official before whom they seek to appear with an applicant or petitioner in person at a USCIS office.²¹ If the DHS official does not permit a law student or law graduate to appear, the reason for this decision shall be provided to the law student or law graduate in writing.

¹⁵ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹⁶ 8 CFR 1.2 (2011)

¹⁷ 8 CFR 1.2 (2011)

¹⁸ 8 CFR 1.2 (2011)

¹⁹ 8 CFR 292.1(a)(2) (2011)

²⁰ 8 CFR 292.1(a)(2) (2011)

²¹ 8 CFR 292.1(a)(2)(iv) (2011)

- The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate.²² Law students and law graduates who are accompanied by the supervising attorney or accredited representative shall be permitted to appear at the interview or other examination.
- If the USCIS officer observes an action by a law student or law graduate that provides good cause for the officer to believe that the representation by the law student or law graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative if they are not present.
- All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the Form G-28 (not the law student or law graduate). Law students and law graduates who have submitted a statement with the information required in 8 CFR 292.1(a)(2) may communicate in writing with USCIS with regard to procedural issues, such as rescheduling of interviews or biometrics appointments. Substantive filings, such as the filing of briefs or submission of evidence, require the signature of the supervising attorney or accredited representative.

(f) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must not receive payment directly or indirectly for his or her representation.²³ A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²⁴

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12-1.)
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in

²² 8 CFR 292.1(a)(2) (2011)

²³ 8 CFR 292.1(a)(3) (2011)

²⁴ 8 CFR 292.1(a)(3)(iii) (2011)

Once the Form G-28 or Form G-28I is accepted, the appearance will be recognized until the conclusion of the matter for which it was entered.

- When filing an appeal with the Administrative Appeals Office on Form I-290B, the attorney or accredited representative must file a new Form G-28.
- Other representatives (law students, law graduates, reputable individuals and accredited officials) may not submit Form G-28 or Form G-28I.
- See section 12.1(e) for additional information on law students and law graduates.

USCIS officers may verify an attorney's or accredited representative's eligibility and require further proof of authority to act in a representative capacity. Officers should seek more information at the DHS Disciplinary Counsel website and at www.justice.gov/eoir/legalrepresentation.htm. Officers should also review the list of disciplined practitioners at http://www.justice.gov/eoir/discipline.htm, which includes attorneys and accredited representatives who are currently disbarred or suspended from practice before DHS and EOIR. USCIS officers should be aware of individuals who have falsely claimed to be attorneys or accredited representatives when they are not and individuals who have been the subject of federal, state, or local court action to stop their unauthorized practice of law or theft of fees for legal services they may not lawfully provide. USCIS officers should not communicate with these individuals, even if they submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in a case.

(b) Substitution or Withdrawal of Representation

It is not uncommon for applicants or petitioners to wish to change representatives or elect to forgo representation during the course of a proceeding. Notification to USCIS of the substitution or withdrawal of a representative may occur in a written notice of withdrawal by the representative of record or upon the filing of a properly completed G-28 or G-28I by the new representative.³¹ Written notifications are to be filed in the record of proceedings. An applicant or petitioner may elect to proceed without his or her representative, but must submit a written statement to the USCIS official that he or she has voluntarily chosen to proceed without representation.

12.3 Proper Service of Documents and Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative.³² Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the

³¹ 8 CFR 292.4 (2011)

³² 8 CFR 292.5 (2011).

benefit notice will also be sent to the applicant or petitioner. **EXCEPTION:** Secure identification documents such as Form I-551, Permanent Resident Card, Form I-766, Employment Authorization Document, Form I-327 Re-entry Permit, and Form I-571 Refugee Travel Document can only be sent to the applicant.³³

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented.³⁴ The receipt notice and any other notices will be sent only to the applicant or petitioner.

12.4 Interviews

When an examination is to be conducted in immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or other representatives of both the petitioner and beneficiary will be permitted to appear.³⁵ In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. An attorney or representative may not respond to questions the USCIS officer directs to the applicant, petitioner, or witness, except to ask the USCIS officer to clarify the question asked. An attorney or representative may ask the applicant or petitioner additional questions at the conclusion of the interview by the officer.

An attorney or other representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview.³⁶ If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings.³⁷

³³ 8 CFR 103.2(b)(19)

³⁴ 8 CFR 103.2(a)(3) (2011)

³⁵ 8 CFR 103.2(a)(3) (2011)

³⁶ Exceptions may be made if the interests of the Government will not be prejudiced.

³⁷ This language does not apply to examinations governed by 8 CFR 312.4.

See Chapter 15 for additional guidance on Interview Techniques.

12.5 Rules of Professional Conduct for Practitioners

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies.³⁸ Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the [Disciplinary Counsel website](#) for more information on the rules of professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative. Attorneys and other representatives have a duty to represent their clients zealously. They must, however, do so within the bounds of the law and in accordance with the Rules of Professional Conduct for Practitioners.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes disruptive, abusive, or otherwise interferes with the orderly process of the interview, the officer should seek assistance from a supervisor. The attorney or representative may object to the appropriateness of a line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to [DHS Disciplinary Counsel](#) through appropriate supervisory channels.

3. Add Appendix 12-1 to the Table of Contents for Appendices.

Appendix 12-1 Sample Statements and Declarations

³⁸ 8 CFR 292.3 (2011)

4. Appendix 12-1 is added as follows:

Appendix 12-1 Sample Statements and Declarations

**SAMPLE STATEMENT OF LAW STUDENT REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a law student enrolled in Anystate Law School, an accredited U.S. law school.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am participating under the direct supervision of Sam Samuels, a faculty member, Susan Williams, a licensed attorney, or Joe Johnson, a BIA accredited representative in a legal aid program or clinic conducted by a law school or non-profit organization.

I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF A LAW GRADUATE REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a graduate of Anystate Law School, an accredited U.S. law school, who is not yet admitted to the bar.

I received my law degree on June 1, 2011 and will take the bar examination on February 21, 2012; or, sat for the bar examination on July 24, 2011 and have not yet received my results.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am appearing under the supervision of Susan Williams, a licensed attorney, or Joe Johnson, an accredited representative. I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

SAMPLE DECLARATION OF A REPUTABLE INDIVIDUAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a reputable individual of good moral character, as defined in 8.CFR 292.1(3).

I am appearing on an individual case basis at the request of Jane Doe, a person entitled to representation. I am appearing without direct or indirect remuneration. I have a pre-existing relationship with Jane Doe as a relative, neighbor, clergyman, business associate, and/or personal friend.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I declare, under penalty of perjury under the laws of the United States of America, that this statement is all true and correct.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

SAMPLE STATEMENT OF AN ACCREDITED OFFICIAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as an accredited official of the Nowhereland government to which Jane Doe owes allegiance.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I am appearing with the consent of Jane Doe, a person entitled to representation.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

☞ 5. Revise Chapter 15.1(a) to read:

(a) General.

In accordance with **8 CFR 103.2(b)(9)**, an applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an application or petition may be required to appear for an interview.

This chapter discusses policies and procedures to be followed in conducting interviews that involve immigration benefits. The basic principles for conducting interviews are outlined and defined below. The policies set forth below apply to all officers, and all personnel interviewing applicants for immigration benefits should be familiar with the contents of this chapter. No adjudicator should be assigned to conduct interviews until his/her first line supervisor is satisfied that the officer is fully competent to do so.

The purpose of an interview is to obtain accurate and complete information from the individual and to make a determination regarding the individual's credibility. The fundamental objective is to obtain the facts necessary to make a correct decision. Therefore, the length of the interview may vary for many reasons including, but not limited to the following:

- The amount and complexity of material being covered;
- Any fraud indicators that may be present;
- The number of individuals interviewed in connection with the case;
- The degree to which all required documents have been submitted;
- The need for an interpreter or the need to tailor questioning to an individual's background and experience; and
- The degree and ease with which IT, recording and other equipment is used.

Interviews conducted by adjudication officers are non-adversarial in nature, as opposed to a court proceeding involving two attorneys where each advocates a particular position.

Developing the skills necessary to conduct such an interview takes time and practice, there are a number of reference guides that can be of assistance. Please see **Appendix 15-2**.

6. Revise Chapter 15.1(b)(2) to read:

15.1 Interview Policies

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews.

(2) Evaluating Requests for the Rescheduling of Interviews (See 8 CFR 103.2(b)(9))

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in *AFM Chapter 15.1(d)(2)*.

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative, the USCIS official should obtain a written statement from the individual. Written statements are to be filed in the record of proceedings. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The officer

should still consider statements and submissions by the individual's attorney or other representative in his or her absence.

7. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants, as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and the person being interviewed, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless this cannot be accommodated due to the physical layout of the interview space. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area should be reasonably near the interview area to minimize lost time between interviews.

8. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both men and women should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being interviewed.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the person being interviewed becomes abusive or if derogatory information is developed. If necessary, contact a supervisor. See section 15.4(e) for guidance on Concluding or Terminating an Interview.
- Be fair, courteous, and patient without diminishing a full and complete development of the material facts, whether they are favorable or adverse to the person being interviewed or any other person.
- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.

- Ensure that your demeanor does not imply or reflect prejudice. Interviews should proceed in a fair and impartial manner so as to avoid complaints regarding the conduct of USCIS officers.

9. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the person(s) being interviewed) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / person being interviewed(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review

of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case:

(c) At the Interview

- Greet the person being interviewed in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) being interviewed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such a statement is not taken, the memorandum record of the interview should show that the person being interviewed was under oath or affirmation.
- An applicant or his or her attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- The person(s) being interviewed should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. USCIS officers are reminded that the purpose of the interview is to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government, in order to properly adjudicate the application or petition.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The person(s) being interviewed(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The person being interviewed is unable to communicate without an interpreter, and one is not available.
- An interpreter clearly has difficulty translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The person being interviewed refuses to respond to questions essential to the successful completion of the interview.
- The conduct of the attorney or other representative has exceeded the bounds of zealous representation and interferes with the ability of the officer to conduct the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the person being interviewed(s) or the attorney or other representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or the attorney or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An applicant or petitioner, or attorney or accredited representative with a properly executed "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28), may request a copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer, by filing a Freedom of Information/Privacy Act Request (Form G-639).³⁹

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

³⁹ 8 CFR 292.4(b) (2011)

10. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 5/23/2012	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(a)• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12 , Private Attorneys and Other Representatives; new Appendix 12-1 , Sample Affidavits; and revisions to Chapter 15.1(a) , Chapter 15.1(b)(2) , Chapter 15.2 , Chapter 15.3 , and Chapter 15.4 .
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

Greenwood, Tembra A

From: INTERNAL COMMUNICATIONS, USCIS
Sent: Friday, January 13, 2012 2:07 PM
Subject: USCIS Leadership Guidance#09-12

Interim Policy Memorandum: PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives



**U.S. Citizenship
and Immigration
Services**
Office of Communications

Leadership Guidance

January 13, 2012
#09-12

Interim Policy Memorandum

USCIS has cleared the following interim policy memorandum for distribution (**Final date for comments: Feb. 14, 2012**)

- PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

There will be opportunities for field leadership to provide their input. Details on an internal USCIS engagement will come next week.

Draft and interim policy memos will be posted on www.uscis.gov/outreach for stakeholder review and comment. Interim and final policy memos are official USCIS policy documents and effective the date the memos are approved.

Visit the [Feedback Opportunities Web page](#) on Connect for additional information.

The USCIS Leadership Guidance is a product of the USCIS Office of Communications. To submit questions or cleared items, or to access previous Leadership Guidance, email [USCIS Internal Communications](#).

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



**U.S. Citizenship
and Immigration
Services**

December 21, 2011

PM-602-0055

Policy Memorandum

SUBJECT: The Role of Private Attorneys and Other Representatives; Revisions to
Adjudicator's Field Manual (AFM) Chapters 12 and 15; *AFM* Update AD11-42

Purpose

This policy memorandum (PM) provides guidance regarding the role of private attorneys and other representatives who appear before USCIS.

Scope

This PM applies to and is binding on all USCIS employees. This PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, part 1(b)(2), parts 2-4, and adds new Appendix 12-1.

Authority

Section 292 of the Immigration & Nationality Act
8 CFR 103; 292

Introduction

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the integrity of the immigration system. This goal is furthered when USCIS adjudicators recognize the range of individuals who may represent applicants and petitioners, respect the relationship between client and representative, and conduct interviews professionally. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews.

Background

An applicant or petitioner for immigration benefits may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.² This does not provide any applicant for admission to the United States with the right to representation, in either primary or secondary

¹ 8 CFR 103.2(a)(3) (2011).

² 8 CFR 292.5(b) (2011).

inspection at a port of entry or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

Prior to 1994, the regulations governing the adjudication of applications and petitions (8 CFR 103.2) did not include provisions specifically addressing the representation of applicants and petitioners during such proceedings. In 1991, the Immigration and Naturalization Service (“Service”) proposed amending the regulations at 8 CFR 103.2 to provide that an applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.³ The Service proposed limiting the categories of eligible representatives in application and petition proceedings from the “broad range” of representatives listed in 8 CFR 292.1. Moreover, in order to properly document representation, the Service proposed revising 8 CFR 292.4(a)(4) to require that an applicant or petitioner sign the notice of appearance in order to authorize representation before the Service.⁴ In adopting these changes in a final rule in 1994, the Service determined that the reasons cited in the supplemental information in the proposed rule supported requiring the signature of the applicant or petitioner on the G-28 and that this was also a way to help combat the unauthorized practice of law by ineligible individuals.⁵ This final rule included the language in 8 CFR 103.2(a)(3) that exists today⁶ and added to 8 CFR 292.4 the requirement that the notice of appearance form be signed by the applicant or petitioner in order to authorize representation before the Service.⁷

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in 8 CFR 103.2(a)(3).⁸ The change reinforced the determination that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not submit a notice of appearance form in application and petition proceedings before DHS, and notification regulations do not apply to them.⁹ These other categories of individuals may appear as “other representatives” at interviews or other in-person meetings with USCIS officials. However, the appearance of these “other representatives” is subject to the approval of the USCIS official after the individual submits a statement addressing the requirements specified in 8 CFR 292.1(a)(2) and (3).

³ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 56 Fed. Reg. 6120161202 (proposed Dec. 2, 1991) (to be codified at 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁴ Id.

⁵ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 59 Fed. Reg. 1455 (Jan. 11, 1994) (amending 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁶ Id. at 1460.

⁷ Id. at 1466.

⁸ Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances, 75 Fed. Reg. 5225, 5227 (Interim rule with request for comments Feb. 2, 2010) (amending 8 CFR 1 and 292)

⁹ Law students and law graduates are permitted to provide their name and sign the Form G-28 filed by the supervising attorney or accredited representative. Instructions to Form G-28.

PM-602-0055: The Role of Private Attorneys and Other Representatives; Revisions to *AFM*
Chapters 12 and 15; *AFM* Update AD11-42

Page 3

Policy

Effective immediately, USCIS Officers will follow the instructions contained in Chapter 12 of the *AFM* as amended by this PM.

Implementation

The *AFM* is revised as follows.

1. Revise the Table of Contents for Chapter 12 to read:

Chapter 12 Private Attorneys and Other Representatives

- 12.1 Representation in Immigration Proceedings
- 12.2 Notice of Entry of Appearance
- 12.3 Proper Service of Documents & Notices
- 12.4 Interviews
- 12.5 Conduct of Attorneys & Representatives
- 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

References

Section 292 of the INA
8 CFR 103 and 292

2. Revise Chapter 12 to read:

Chapter 12: Private Attorneys and Representatives

Chapter 12.1 Representation before USCIS

(A) General

An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹⁰ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.¹¹ This does not provide any applicant for admission the right to representation, in either primary or secondary inspection or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

¹⁰ 8 CFR 103.2(a)(3) (2011)

¹¹ 8 CFR 292.5(b) (2011)

Title 8 CFR 292.1 lists the types of individuals who may represent an individual before USCIS. Attorneys in the United States, attorneys outside the United States, and accredited representatives may provide legal representation after filing a Notice of Entry of Appearance on Form G-28 or G-28i. See below for specific details.

Title 8 CFR 292.1 also lists other categories of representatives – reputable individuals, law students, law school graduates, and accredited officials – who may assist an individual before USCIS. These individuals must provide additional information to the DHS official before whom they seek to appear, and that official must permit their appearance. These representatives are not eligible to file a notice of appearance (Form G-28) in application and petition proceedings, and USCIS does not communicate with them in writing regarding application or petition proceedings.¹² Each of these representatives must file a statement or declaration described in greater detail below. The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

These individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office in order to support an applicant or petitioner and provide non-legal assistance. However, these guidelines do not preclude any individual (such as a family member, friend, colleague, etc.) from helping an applicant or petitioner with the completion of forms, so long as the assistance does not constitute practice or preparation, as that term is defined in 8 CFR 1.1(k).

(B) Attorneys in the United States

An “attorney” is any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.¹³

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹⁴

¹² Id.

¹³ 8 CFR 1.1(f) (2011)

¹⁴ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

(C) Attorneys outside the United States

An **"attorney outside the United States"** is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹⁵

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States" (Form G-28I) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁶

(D) Accredited Representatives

An **"accredited representative"** is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) to practice before the Executive Office for Immigration Review (EOIR), including the immigration courts, the BIA and DHS.¹⁷

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and DHS at www.justice.gov/eoir/legalrepresentation.htm.
- Accredited representatives must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁸

(E) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must

¹⁵ 8 CFR 292.1(a)(6) (2011)

¹⁶ 8 CFR 292.4(a) (2011); Instructions for Form G-28I (04/22/09)

¹⁷ 8 CFR 292.1(a)(4) & 8 CFR 292.2

¹⁸ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

not receive payment directly or indirectly for his representation.¹⁹ A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²⁰

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12-1).
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²¹
- USCIS does not accept Forms G-28 filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²²
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in person in that case. The reputable individual will not receive copies of notices or other written communication that USCIS sends to the individual being represented.²³

(F) Law Students and Law School Graduates

Law students who are enrolled in an accredited U.S. law school and **law graduates** of an accredited U.S. law school not yet admitted to the bar may provide representation, constituting practice and preparation, with the supervision required in 8 CFR 292.1(a)(2).

- Law students and law graduates must seek permission to appear in proceedings before DHS officials.²⁴ The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate.²⁵
- A **law student** enrolled in an accredited U.S. law school must file a statement that states that, he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or

¹⁹ 8 CFR 292.1(a)(3) (2011)

²⁰ 8 CFR 292.1(a)(3)(iii) (2011)

²¹ 8 CFR 292.1(a)(3)(iv) (2011)

²² 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

²³ 8 CFR 103.2(a)(3) and 292.5(a) (2011).

²⁴ 8 CFR 292.1(a)(2)(iv) (2011)

²⁵ 8 CFR 292.1(a)(2) (2011)

- clinic conducted by a law school or non-profit organization, and is appearing without direct or indirect remuneration from the individual he or she represents.²⁶
- A **law school graduate** of an accredited U.S. law school who is not yet admitted to the bar must file a statement that states that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.²⁷
 - The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) on which the law student or law graduate provides his or her name and signature.²⁸ All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the G-28 (not the law student or law graduate).
 - If the USCIS officer observes an action by a law student or graduate that provides good cause for the officer to believe that the representation by the law student or graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative.

(G) Accredited Officials

Although it is rare, an **accredited official** of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant or petitioner's consent.²⁹

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See Sample Statement in Appendix 12-1.)
- DHS does not send notices or other written communications to accredited officials.

12.2 Notice of Entry of Appearance

(A) Filing a Notice of Entry

Attorneys, attorneys outside the United States, and accredited representatives must establish their eligibility to appear on the form designated by DHS in each case.³⁰

²⁶ 8 CFR 292.1(a)(2) (2011)

²⁷ 8 CFR 292.1(a)(2) (2011)

²⁸ 8 CFR 292.1(a)(2) (2011); Instructions to Form G-28. (Submitted to OMB on Oct. XX, 2011 for 60 day notice)

²⁹ 8 CFR 292.1(a)(5) (2011)

³⁰ 8 CFR 292.4(a) (2011)

- Attorneys and accredited representatives must submit a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.
- Attorneys outside the United States must submit a Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States.
- The Form G-28 and Form G-28I must be properly completed and signed by the applicant or petitioner in order for the appearance to be recognized by USCIS. Once the Form G-28 or Form G-28I is accepted, the appearance will be recognized until the conclusion of the matter for which it was entered.
- When filing an appeal with the Administrative Appeals Office on Form I-290B, the attorney or accredited representative must file a new Form G-28.
- Other representatives (law students and law graduates, reputable individuals, and accredited officials) may not submit Form G-28 or Form G-28I and may only appear after filing a statement in which they provide specific information listed in the regulations.³¹ The appearance of these other representatives is subject to the approval of the USCIS official before whom they seek to appear.³²

USCIS officers may verify an attorney's or accredited representative's eligibility and require further proof of authority to act in a representative capacity. Officers should seek more information at the DHS Disciplinary Counsel website and at www.justice.gov/eoir/legalrepresentation.htm. Officers should also reference the list of disciplined practitioners at <http://www.justice.gov/eoir/discipline.htm>, which includes attorneys and accredited representatives who are currently expelled or suspended from practice before DHS and EOIR. USCIS officers should be aware of individuals who have falsely claimed to be attorneys or accredited representatives when they are not and individuals who have been the subject of federal state or local court action to stop their unauthorized practice of law or theft of fees for legal services they may not lawfully provide. USCIS is not to communicate with such individuals, even if they submit a "Notice of Appearance as Attorney or Representative" (Form G-28) in a case.

(B) Substitution or Withdrawal of Representation

It is not uncommon for applicants or petitioners to wish to change representatives or elect to forgo representation during the course of a proceeding. Substitution or withdrawal of an attorney or accredited representative may be made upon the written withdrawal of the attorney or accredited representative of record or upon notification of the new attorney or accredited representative.³³ An applicant or petitioner may elect to proceed without his or her representative, but must submit a written statement to the USCIS official that he or she has voluntarily chosen to proceed without representation.

³¹ 8 CFR 292.1(a)(2), (3) and (5) (2011).

³² See fn. 28.

³³ 8 CFR 292.4 (2011)

12.3 Proper Service of Documents & Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative.³⁴ Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the benefit notice will also be sent to the applicant or petitioner. **EXCEPTION:** Secure identification documents such as Form I-551, Permanent Resident Card or Form I-766, Employment Authorization Document, can only be sent to the applicant.³⁵

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented.³⁶ The receipt notice and any other notices will be sent only to the applicant or petitioner.

12.4 Interviews

When an examination is to be conducted in immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

Only an attorney, an attorney outside the United States, an accredited representative, or a law student or law graduate appearing with proper supervision and with the permission of a DHS official may provide legal advice to an applicant, petitioner, or witness.³⁷ USCIS may allow other eligible representatives (including reputable individuals, law students, and law school graduates), who have obtained the consent of the applicant, petitioner, beneficiary or other witness, to appear at interviews with the individual. These individuals must seek permission from the presiding DHS official to appear at the interview. Other categories of representatives may provide non-legal assistance and support that does not constitute practice or preparation, as defined in 8 CFR 1.1.

³⁴ 8 CFR 292.5 (2011).

³⁵ 8 CFR 103.2(b)(19).

³⁶ 8 CFR 103.2(a)(3) (2011).

³⁷ 8 CFR 1.1(i), (j) and (k).

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or eligible representatives of both the petitioner and beneficiary will be permitted to appear at the interview.³⁸ In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. Any individual appearing in a representative capacity may not respond to questions the interviewing officer has directed to the applicant, petitioner, or witness, except to ask clarifying questions.

An attorney or representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview.³⁹ If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings.

12.5 Conduct of Attorneys and Representatives

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies.⁴⁰ Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the Disciplinary Counsel website for more information on professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes argumentative, the officer should seek assistance from a supervisor. The attorney or representative may raise an objection on an inappropriate line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to DHS Disciplinary Counsel through appropriate supervisory channels.

³⁸ 8 CFR 103.2(a)(3) (2011)

³⁹ Exceptions may be made if the interests of the Government will not be prejudiced.

⁴⁰ 8 CFR 292.3 (2011)

- ☞ 3. Add Appendix 12-1 the Table of Contents for Appendices.

Appendix 12-1 Sample Statements and Declarations

- ☞ 4. Appendix 12-1 is added as follows:

Appendix 12-1 Sample Statements and Declarations

**SAMPLE STATEMENT OF LAW STUDENT REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a law student enrolled in Anystate Law School, an accredited U.S. law school.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am participating under the direct supervision of Sam Samuels, a faculty member, Susan Williams, a licensed attorney, or Joe Johnson, a BIA accredited representative in a legal aid program or clinic conducted by a law school or non-profit organization.

I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF A LAW GRADUATE REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a graduate of Anystate Law School, an accredited U.S. law school, who is not yet admitted to the bar.

I received my law degree on June 1, 2011 and will take the bar examination on February 21, 2012; or, sat for the bar examination on July 24, 2011 and have not yet received my results.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am appearing under the supervision of Susan Williams, a licensed attorney, or Joe Johnson, an accredited representative. I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE DECLARATION OF A REPUTABLE INDIVIDUAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a reputable individual of good moral character, as defined in 8 CFR 292.1(3).

I am appearing on an individual case basis at the request of Jane Doe, a person entitled to representation. I am appearing without direct or indirect remuneration. I have a pre-existing relationship with Jane Doe as a relative, neighbor, clergyman, business associate, and/or personal friend.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I declare, under penalty of perjury under the laws of the United States of America, that this statement is all true and correct.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

SAMPLE STATEMENT OF AN ACCREDITED OFFICIAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as an accredited official of the Nowhereland government to which Jane Doe owes allegiance.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I am appearing with the consent of Jane Doe, a person entitled to representation.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

5. Revise Chapter 15.1(b)(2) to read:

15.1 Interview Policies

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews. **[Revised 11-23-2005]**

(2) Evaluating Requests for the Rescheduling of Interviews (See 8 CFR 103.2(b)(9))

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in *AFM Chapter 15.1(d)(2)*.

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative the USCIS official should obtain a written statement from the individual. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The

officer may still consider statements and submissions by the individual's attorney or other representative in his or her absence.

6. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for adjustment, naturalization, marriage fraud and conditional resident removal interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and applicant, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless the physical layout of the interview space cannot accommodate it. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area

should be reasonably proximate to the interview area to minimize lost time between interviews.

7. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both males and females should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being questioned.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the interviewee becomes abusive or if derogatory information is developed. If necessary, contact a supervisor.
- Be fair, courteous, and patient without diminishing in any degree full and complete development of the material facts, whether they be favorable or adverse to the person being interviewed or any other person.

- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.
- Ensure that your demeanor is unprejudiced, impartial, and creates no foundation for complaints that you have been unfair or have used any mistreatment or duress.

8. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the interviewee(s)) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / interviewee(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding

any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case.

(c) At the Interview

- Greet the interviewee in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) to be sworn or affirmed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such statement is not taken, the memorandum record of the interview should show that the person was under oath or affirmation.
- An applicant or the applicant's attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- Persons being questioned should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. In this connection, however, remember that an adjudicator is duty-bound to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The subject(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The interviewee is unable to communicate without an interpreter and one is not available.
- An interpreter clearly has difficulty in translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The subject refuses to respond to questions essential to the successful completion of the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the subject(s) or representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An alien, or attorney or accredited representative with a properly executed Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28), may request a personal review and/or copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer. The requesting party may file a Freedom of Information/Privacy Act Request (Form G-639) with USCIS to gain access to other record material.

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

9. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 12/21/2011	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12 , Private Attorneys and Other Representatives; new Appendix 12-1 , Sample Affidavits; and revisions to Chapter 15.1(b)(2) , Chapter 15.2 , Chapter 15.3 , and Chapter 15.4 .
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

From: Bibona, Lisa M on behalf of NERADJ-SURVEYS
Sent: Tuesday, August 16, 2011 8:55 AM
To: #NER-DD-FOD-COS
Cc: Goodwin, Shelley M; Kern, Suzanne C; Saucier, Shawn A; O'Neill, Anne M; Bielicki, John S
Subject: Survey DUE by COB August 24, 2011 on Draft Policy Memorandum on The Role of Private Attorneys and Other Representatives

Follow Up Flag: Follow up
Flag Status: Completed

Attachments: Comment Form.docx
Field Leadership –

The HQ Operations Division is requesting a review of the draft policy memorandum entitled The Role of Attorneys and Other Representatives. This draft policy memorandum provides guidance regarding the role of private attorneys and other representatives who appear before USCIS. It is intended solely for the guidance of USCIS personnel in the performance of their official duties.

Background

An applicant or petitioner subject to examination in an immigration proceeding has the right to be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States) or other representative of a recognized organization, at no expense to the government. In addition, local office directors have discretion to permit individuals other than an attorney or accredited representative to appear with applicants or petitioners before USCIS officials in their jurisdiction.

Request

Please review the draft policy memorandum: The Role of Attorneys and Other Representatives that has been placed on the field operations ECN, (ctrl + click on this link, and the click on the title to go to the doc- let NER know if you have trouble accessing). Please use the attached Comment Form to annotate your recommendations. This should be done by listing the page or reference and whether they are red flag/critical comments or general comments.

Deadline

Please rename your Comment Form using your three-letter office code. It should be submitted to the **NERADJ-SURVEYS** outlook account by **COB on Wednesday, August 24, 2011**. In the subject line of your message, please include your three letter office code and do not change anything else. Your field office comments or concurrence are required.

Thank you.

Lisa Bibona
DHS/USCIS
Northeast Regional Office - Adjudications
Tele: (802) 660-5124
Fax: (802) 660-1192

Greenwood, Tembra A

From: Beaulieu, Shelley M
Sent: Tuesday, January 17, 2012 9:21 AM
To: Allain; Jeannie L; Bae, Connie J; Baranowski, Katherine L; Bazylak, Mary; Borjal, Ely P; Bradley, Lisa D; Brinkworth, Gerry J; Bryan, Sheręcia D; Castro, Anouchka; Cavanaugh, Daniel M; Cintron, Roberto; Conner, Lorelie C; Crawford, Jonathan E; Crockett, Stanley W; Cruz, Cindy A; Dalziel, Karen L; Dang, Tuan; DeBoe, Mayburn E; Dennis, Lynuel W; Embry, Sheila G; Fernandez, Rosalinda; Finnerty, Meryl M; Fletcher, James C; Flint, Donna K; Garcia, Iris M; Gonzalez-Ferrer, Deliana; Hackbarth, Joseph M; Hesles, Monica M; Hill, Robert O; Iglesias, Margaret; Johnson, Bertha L; Johnson, Cheryl L; Johnson, David P; Karabiyik, Elva A; Kernan, Joseph E; Koch, Steven P; Lassen, Brett H; Lopez-Tome, Eileen E; Magana, Erma C; Marmar, Bruce L; Maus, Maria I; Medina, Madeline; Meeker, Leslie A; Mendez, Gladys M; Morris, Victor M; Morrow, Meredith A; Muttuswamy, Sivaloganathan L; Olguin, Christina; Onyango, Paul O; Ramos, Michelle O; Rinehart, Brett R; Robinson, Tony L; Ruggiero, Phyllis; Sankar, Gina M; Sapko, Jeffrey M; Smith, Kristen J; Smith, Sara A; Stulz, Enid; Vasquez, Kenneth; Walter, Lisa; Ward, Ella V; Wilcox, Wendy M; Williams, DeShawna P; Ashley, Tina J; Dorochoff, Ruth A; Frazier, Denise M; Gomez, Cindy N; Kerns, Kevin J; Ow, Alanna; Pecinovsky, Steven; Swacina, Linda
Cc: Tierney, Terry; USCIS-SER-REPORTS; Bloom, Amanda J
Subject: SG 076-12 21DEC2011 The Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42
Attachments: SG 076-12 The Role of Private Attorneys and Other Representatives.doc; Role of Private Attorneys PM-602-0055 - December 21 2011.pdf

Field Leadership—

Attached please find the summary guidance (SG) 076-12, "The Role of Private Attorneys and Other Representatives; Revisions to *Adjudicator's Field Manual (AFM)* Chapters 12 and 15; *AFM Update AD11-42*".

I am your SER POC for this activity. Please contact me if you have any questions.

Thank you.
Shelley



Shelley M Beaulieu
Immigration Services Officer
Southeast Regional Office
(w) 407-237-8838

SER ADJ ECN:
http://ecn.uscis.dhs.gov/team/fod/region/southeastreg/SER_Adjudications/default.aspx

SER SUMMARY GUIDANCE

HQ Memo PM-602-0055 Dated: December 21, 2011

The Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Number : SG 076-12

January 17, 2012

SYNOPSIS

This policy memorandum (PM) provides guidance regarding the role of private attorneys and other representatives who appear before USCIS. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews. The PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, part 1(b)(2), parts 2-4, and adds new Appendix 12-1.

FIELD GUIDANCE

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in 8 CFR 103.2(a)(3). The change reinforced the determination that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not submit a notice of appearance form in application and petition proceedings before DHS, and notification regulations do not apply to them. These other categories of individuals may appear as "other representatives" at interviews or other in-person meetings with USCIS officials. However, the appearance of these "other representatives" is subject to the approval of the USCIS official after the individual submits a statement addressing the requirements specified in 8 CFR 292.1(a)(2) and (3).

Effective immediately, USCIS Officers will follow the instructions contained in Chapter 12 "Private Attorneys and Other Representatives" and Chapter 15 "Interview Policies" of the *AFM* as amended by this PM. The amendments to the *AFM* are highlighted below:

1. Revise the Table of Contents for Chapter 12 "Private Attorneys and Other Representatives"
2. Revise Chapter 12 "Private Attorneys and Other Representatives"
3. Add Appendix 12-1 "Sample Statements and Declarations" to the Table of Contents for Appendices
4. Add Appendix 12-1 "Sample Statements and Declarations"
5. Revise Chapter 15.1(b)(2) "Interview Policies"
6. Revise Chapter 15.2 "Interview Environment"
7. Revise Chapter 15.3 "Officer Conduct and Appearance"

8. Revise Chapter 15.4 "*Interview Procedures*"
9. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order

This PM also includes *Sample Statements and Declarations* for USCIS Officers.

SER POC

The SER POC for this activity is Shelley Beaulieu. This SG and Memo can be found on ECN at: http://ecn.uscis.dhs.gov/team/fod/region/southeastreg/SER_Adjudications/Summary%20Guidance/Forms/AllItems.aspx

(b)(6)

Greenwood, Tembora A

From: Janssen, Warren
Sent: Wednesday, August 22, 2012 6:55 AM
To: Pecinovsky, Steven
Cc: Hopkins, Linda; Roman, Jacqueline; Tierney, Terry; Fletcher, James C
Subject: RE: aila liaison questions
Attachments: QA Aug 2012 Liaison.doc

Here it is again. Thanks

From: Pecinovsky, Steven
Sent: Wednesday, August 22, 2012 7:52 AM
To: Janssen, Warren
Cc: Hopkins, Linda; Roman, Jacqueline; Tierney, Terry; Fletcher, James C
Subject: RE: aila liaison questions

Please attach the questions and proposed responses so that we can send them to SER for vetting.

Steven J. Pecinovsky
Chief of Staff
Tampa District Office
U.S. Citizenship and Immigration Services
5629 Hoover Blvd.
Tampa, Florida 33634
813-712-8939



**U.S. Citizenship
and Immigration
Services**

USCIS Tampa District Mission Statement

*We are a District of excellence delivering quality immigration services with respect and integrity.
In doing our part to safeguard America, we embrace change, inspire ingenuity and embody vigilance.*

USCIS Tampa District Credo

Excellence in Progress!

From: Janssen, Warren
Sent: Wednesday, August 22, 2012 7:47 AM
To: Hopkins, Linda; Roman, Jacqueline
Cc: Pecinovsky, Steven
Subject: FW: aila liaison questions

Not sure of the proper channel or who to send this to for vetting. Please advise and thanks. Our AILA meeting is 8/30. Thanks

From: Fletcher, James C
Sent: Wednesday, August 22, 2012 7:40 AM

(b)(6)

To: Janssen, Warren
Subject: FW: aila liaison questions

Warren,

Attached are Mike's responses to the AILA questions along with relevant documents.

Thanks,

James C. Fletcher
Branch Chief, Supervisory Immigration Services Officer
Orlando Field Office
U.S. Citizenship and Immigration Services
6680 Corporate Centre Blvd
Orlando, FL 32822
(407) 858-3624 - Phone


james.fletcher@dhs.gov

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From: Italia, Michael A.
Sent: Monday, August 20, 2012 11:28 AM
To: Fletcher, James C; Bae, Connie J
Subject: FW: aila liaison questions

See attached. Sometimes, the less said the better for AILA! Please feel free to add, delete, whatever, and I have attached some documents mentioned for you, not necessarily for AILA.

M


From: Fletcher, James C
Sent: Friday, August 17, 2012 8:15 AM
To: Italia, Michael A
Subject: FW: aila liaison questions

Mike,

Can you take a crack at some of these questions when you get the chance?

Thanks,

James C. Fletcher
Branch Chief, Supervisory Immigration Services Officer
Orlando Field Office
U.S. Citizenship and Immigration Services
6680 Corporate Centre Blvd
Orlando, FL 32822
(407) 858-3624 - Phone


james.fletcher@dhs.gov

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From: Janssen, Warren
Sent: Friday, August 17, 2012 8:05 AM
To: Fletcher, James C; Bae, Connie J
Subject: FW: aila liaison questions

Take a crack at these questions and we'll discuss afterwards to fine tune our responses. Please have this complete by COB Wednesday 8/22. Thanks

From: Lisa Khan [<mailto:lisa@lisavisa.com>]
Sent: Thursday, August 16, 2012 4:50 PM
To: Janssen, Warren
Subject: aila liaison questions

Hi, Warren,

Attached are the 10 questions gathered from the AILA Central Florida membership for our upcoming Liaison meeting on August 30.

Let me know if you will have the question with written answers ready for distribution to the attendees or if I should bring a stack of the Questions to the meeting to hand out.

I'll also email you a list of those expected to attend closer to August 30.

Looking forward to it!

Sincerely,
Lisa Khan- AILA Central Florida Chapter, Regional Vice Chair, Orlando

Immigration Law Offices of Lisa Krueger Khan, P.A.
7932 West Sand Lake Road
Suite 303
Orlando, FL 32819

Phone: 407.351.9075
Fax: 407.351.9076
Email: lisa@lisavisa.com
www.lisavisa.com

(b)(5)

1. What is the Orlando USCIS office's policy on long-pending, "Golden Oldie" files? (e.g., cases pending many months or even over a year since interview or filing). A typical response to an inquiry on such a case is: "Based on your request we researched the status of this case. We are actively processing this case. However, we have to perform additional review on this case and this has caused a longer processing time. If you do not receive a decision or other notice of action from us within 6 months of this email, please contact us again." In the past, various Field Office Directors have requested a list of "Golden Oldie" cases from attorneys or implemented a special means of bringing these cases to the attention of a supervisor or the FOD. Kindly advise.

2. What is the normal time frame for your office to respond to the following:

a. Forwarding an appeal to the BIA filed on Form EOIR-29?

b. Issuing a decision following your receipt of a response to a NOID?

c. Issuing a decision following your receipt of a response to a NOIR?

(b)(5)

d. Issuing a decision, or taking other action, after a case has been remanded from the BIA or AAO?

We have noticed that sometimes it takes many months, if not years, for your office to process the above matters. Who can we contact in your office if one of the above matters is beyond the normal processing times?

3. Does the Orlando USCIS office have a Parole in Place (PIP) program or procedure for military families and if so, please clarify.

4. "As of June 4, 2012, immigrant visa applicants who are applying for a waiver of a ground of inadmissibility from outside the United States file the Form I-601, Application for Waiver of Grounds of Inadmissibility, by mail with a USCIS domestic Lockbox facility, rather than with a USCIS international field office, or a U.S. Embassy or Consulate." This procedural change is in the spirit of family unity. Given this change, if an I-130 petition has been transferred to Orlando USCIS where the petitioner and beneficiary are

(b)(5)

present in the US and the applicant will require both an I-601 waiver and an I-212 Application for Permission to Reapply for Admission into the United States After Deportation or Removal, is it likely that the beneficiary/immigrant visa applicant would be taken into custody at an I-130 interview?

5. Does an applicant for naturalization need to list traffic tickets on the N-400? Some officers point to the word "cited" and insist on marking "yes" to that question and then listing the tickets. Others ignore it if there are only traffic tickets.

6. AILA members report that clients have complained about the inquiry officers in the windows making unprofessional comments such as "I'm surprised you're not detained," "There's no update yet, but I'll bet you should be receiving a denial soon." Kindly comment.

7. The issue of the role of the attorney has been raised before at Orlando USCIS and we would appreciate the view of the new Field Office Director on the issue. Also, under what circumstances during an interview is it appropriate for an attorney to request a supervisor?

(b)(5)

8. What is the normal processing time for an I-290B Notice of Appeal or Motion at USCIS Orlando?

9. Will your office reopen a case *sua sponte* when it denies a case as a result of its clear error and when that error is brought to its attention within a reasonable time? The AFM 10.17(c) reads, "USCIS Motions. If you determine that a petition should not have been approved but there are no specifically applicable grounds for revocation in the regulations, or that a petition should not have been denied, the petition may be reopened on USCIS motion and a new decision issued. . . ." How should such requests be made, to whom and by what method (Infopass, mail, email), and how long should we expect for a decision as to whether the Service will reopen on its own motion? If such a request is denied, is it appropriate to do so without explanation?

10. In the past, both AILA attorneys, their clients and pro se clients have had difficulty with 1 or 2 officers at USCIS Orlando. The same issues and names pop up again and again (examples: officer making inappropriate comments under his/her breath, rolling his/her eyes in response to an answer provided by an applicant, lack of common courtesy- applicant saying "hello, nice to meet you" and officer responding by deliberately turning his/her back on the applicant and not responding at all, etc.). In the past, it was requested that negative comments/experiences about a particular officer be gathered by the AILA chapter liaison point person and brought to the FOD's attention rather than discussed openly in a liaison meeting. If these issues are recurring with current officers or arise with new hires, how should such information be communicated to USCIS Orlando and what typically would be done in response?



[The page contains extremely faint and illegible text, likely bleed-through from the reverse side of the document. No specific words or phrases can be discerned.]

Greenwood, Tembora A

From: Iglesias, Margaret
Sent: Tuesday, March 23, 2010 2:00 PM
To: USCIS-SER-SURVEYS
Cc: USCIS-D10-REPORTS
Subject: ORL: Atty Seating During Interviews
Attachments: ORL Atty Seating During Interviews.xls

Follow Up Flag: Follow up
Flag Status: Flagged

Here is Orlando's response...

Going for the Best Again in 2010

Margaret Iglesias

Field Office Director

Orlando Field Office

6680 Corporate Centre Blvd

Orlando, FL 32822

☎: 407-858-3610 | **☎:** 407-858-3616

✉: Margaret.Iglesias@dhs.gov

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Please consider the environment before printing this e-mail

From: Tierney, Terry
Sent: Friday, March 19, 2010 5:34 PM
To: Sotomayor, Edward; Hendricks, Roy L.; Adair, Jerri; Baranowski, Katherine L; Castro, Anouchka; Crawford, Jonathan E; Cruz, Cindy A; Dennis, Lynuel W; Fenwick, Robert A; Gottlieb, Richard H; Hackbarth, Joseph M; Hill, Robert O; Holston, Leander B; Iglesias, Margaret; Johnson, Bertha L; Meeker, Leslie A; Mendez, Gladys M; Muttuswamy, Sivaloganathan L; Patterson, Katherine R; Rinehart, Brett R; Sapko, Jeffrey M; Singla, Vinay M; Smith, Kristen J; Stulz, Enid; Topping, Ellen L
Cc: Barrett, Robin L; Parker, Vanessa; USCIS-SER-SURVEYS; Bloom, Amanda J; Aran, Maria M; Frazier, Denise M; Gomez, Cindy N; Hutchings, Pamela G; Kerns, Kevin J; McDonald, Pamela L; Ow, Alanna; Pecinovsky, Steven; Redman, Kathy A; Swacina, Linda
Subject: ACTION DUE: 12 NOON MARCH 26, 2010: ADJ: Atty Issue

Field Leadership,

(b)(6)

In follow-up to the below message received from Debbie Rogers, please complete the attached survey and return to the USCIS-SER-SURVEYS mailbox by 12 NOON EST on Friday March 26, 2010.

Vanessa Parker will be the POC for this activity.

Terry Tierney
Assistant Regional Director Adjudications, SER
390 N. Orange Ave, Rm 220
Orlando, FL 32801-1640
Ph: 407-237-8824

SER docushare: <http://docs.uscis.dhs.gov/dsweb/View/Collection-11124>

-----Original Message-----

From: Rogers, Debra A
Sent: Thursday, March 18, 2010 11:04 AM
To: Muzyka, Carolyn L; Booe, Jim C; Upchurch, Evelyn M; Garman, Gary G; Melville, Rosemary; Barrett, Robin L; Cowan, Robert M; Robinson, Terri A; Renaud, Tracy L; Goodwin, Shelley; Arellano, Jane; Caterisano, Richard C; Corsano, Anne Arries; Crider, Larry; Curda, Susan M; Dedvukaj, Mick; Dorochoff, Ruth A; FitzGerald, Karen L; Frazier, Denise M; Gomez, Cindy N; Gulick, David; Hansen, Mark B; Heathman, Sandy M; Holmes, M. Frances; Jaromin, Michael T; Kehl, Lisa M; Kramar, John; Mather, Robert B; Ortiz, Mario R; Owen, Russell W; Pierre, Paul M; Quarantillo, Andrea J; Redman, Kathy A; Riordan, Denis C; Swacina, Linda; Taylor, Sarah T
Cc: Harrison, Julia L
Subject:

Dear Field Operations Leadership Team:

Director Mayorkas ("Ali") hosted a national stakeholders meeting yesterday that was very well attended. Stakeholders expressed appreciation for the outstanding adjudicative work we perform in the field, and the high quality of service we provide daily. You were complimented repeatedly for your dedication to outreach and community engagement. Your efforts are truly appreciated by the Director.

In the context of the meeting, I indicated that soon the Field Office Directorate will host our own national stakeholders meeting with all of you invited to join the call. We hope to host this meeting in May. I am interested in knowing in advance of any issues you believe stakeholders in your community might feature.

I want to bring to your attention an issue of concern that was raised

yesterday. Several in attendance at Ali's stakeholder meeting noted their experience of not being treated properly during client interviews. In particular, stakeholders maintained that attorneys and/or accredited representatives are not allowed to sit beside their clients in some field offices. I found this information troubling and at first doubted its veracity. To my surprise, however, it appears this practice is fairly standard in some USCIS offices.

Further, the practice has been reinforced by an interviewing techniques module delivered at ISO BASIC training. Officers are taught that an attorney or accredited representative accompanying an applicant should be seated "next to or behind" the applicant. In speaking with the training coordinator, I was informed that this directive was designed to address space constraints and the requirement that some interviews be video-taped. The training material advises that the applicant must always sit in front for full visibility, which is why attorney placement depending on the size and shape of the interview room can vary. This guidance will be removed from BASIC training and replaced with a more appropriate message.

Please advise all ISO's under your direction that it is essential to afford attorneys and accredited representatives the option of sitting next to their client whenever possible. The proximity of an attorney or accredited representative to his or her client is to be determined within that relationship, and not by us.

It has also come to my attention that in some USCIS offices, attorneys or accredited representatives are asked to sit in the back of the interview room based on the belief that such seating affords the ISO better control of the interview. This practice must cease immediately. Please talk to your ISO's about proper seating during adjudicative interviews, and the critical importance of USCIS not engaging in behavior that could be perceived as, or have the effect of, undermining the integrity of the attorney/client relationship.

Any concerns regarding disruptive behavior by a particular attorney or accredited representative should be raised through appropriate channels within the Office of the Chief Counsel.

In general, it has been my observation that some of our newer officers and even more seasoned officers would benefit from additional guidance on interview techniques and the role of private attorneys or accredited representatives. We will focus on this issue in headquarters, and soon draft for your review and input related field guidance and training materials. If you have locally developed guidance, I would appreciate receiving a copy, as I am sure there are best practices we can incorporate into this guidance.

Beginning in April, I will begin hosting monthly calls with all of you. This will give us an opportunity to get to know each other better,

identify pressing issues and potential solutions, and share success stories. Our first call will be held at 2pm EST on Tuesday, April 6th. You will receive an Outlook invitation including relevant call information. Participants at least initially will include our Regional Directors, District Directors, and the Field Operations Headquarters Management team. We can discuss further expansion of participants after the first few calls. If there are particular topics you would like to discuss, please send them to Sheila Rawles, Acting Chief of the Communication and Coordination Branch, at your earliest convenience.

Thank you for your hard work and dedication. I look forward to speaking with you soon.

Debbie

Debra Rogers

Associate Director

Field Operations

USCIS

202-272-1191

District and Field Office Atty Placement during Interviews

SER	Do you ever give specific instructions to the atty on where to sit during interviews?	What factors would cause you to do this?	What guidance if any has your office provided to the ISO on where the atty sits during the interview?
District 8			
ATL			
CHL/GRR			
CLT			
RAL			
District 9			
MIA			
HIA			
OKL			
KND			
SAJ			
CHA			
CHR			
District 10			
TAM			
JAC			
WPB			
ORL	yes	Every atty sits in the same place	Every ISO instructs the atty to sit behind the applicants during the interview if there are more than 2 people during the interview. Since the space next to the desk only allows for 2 people to sit there, and if we have a petitioner and beneficiary they are the ones to sit by the desk.
District 11			
NOL			
MEM			
FSA			

(b)(6)

Greenwood, Tembra A

From: Pietropaoli, Lori
Sent: Wednesday, September 29, 2010 3:28 PM
To: Tierney, Terry
Subject: FW: Reminder

Looks like Maggie beat us to it...

Lori Pietropaoli | ARD Operations | Southeast Region | USCIS
Ph: 407-237-8813 |

From: Iglesias, Margaret
Sent: Wednesday, September 29, 2010 4:25 PM
To: Orlando CIS
Cc: Dorochoff, Ruth A; Redman, Kathy A; Pietropaoli, Lori
Subject: Reminder

To all,

This is from the Adjudicator's Field Manual...

a) Basic Interview Procedures and Techniques.

Conducting successful interviews and interrogations is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant, others change according to the circumstances. The following observations apply to all interviews:

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the interviewee(s) themselves) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / interviewee(s) to bring the originals of all documents previously submitted as photocopies. (Whether the interviewing officer chooses to examine them during the interview or not, the original documents should be available.)
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order that the adjudicator will have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review of the applicable provisions of the law and precedent decisions also should be made, if necessary, to insure thorough familiarity with any legal issue involved which is to be developed by questioning. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition, needless questions, or illogical rambling.
- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and

arrange such material in the sequence of the plan of questioning. The extent of preliminary preparation necessary depends upon the issues involved in the individual case.

- In "marriage fraud" interviews or certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify discrepant answers. It may be necessary to recall the first party for further questioning after the second party provides discrepant answers. In other types of interviews, an entire family group may be interviewed collectively.
- Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.
- Greet the interviewee in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview including interpreters and attorneys, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"

Please remember to administer the oath as highlighted above...

Going for the Best Again in 2010

Margaret Iglesias

Field Office Director

Orlando Field Office

6680 Corporate Centre Blvd

Orlando, FL 32822

☎: 407-858-3610 | ☎: 407-858-3616

✉: Margaret.Iglesias@dhs.gov

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Please consider the environment before printing this e-mail

(b)(6)

Greenwood, Tembra A

From: Tierney, Terry
Sent: Tuesday, May 31, 2011 4:34 PM
To: [REDACTED]
Subject: FW: ASSISTANCE REQUESTED

Importance: High

Just keeping you in the loop on this

Terry Tierney
Acting Associate Regional Director Operations, SER
390 N. Orange Ave, Rm 220
Orlando, FL 32801-1640
Ph: 407-237-8824
[REDACTED]

SER docushare: <http://docs.uscis.dhs.gov/dsweb/View/Collection-11124>

"Every job is a self-portrait of the person who did it. Autograph your work with excellence."

From: Tierney, Terry
Sent: Tuesday, May 31, 2011 5:33 PM
To: Iglesias, Margaret
Subject: FW: ASSISTANCE REQUESTED
Importance: High

More from your attorney

Terry Tierney
Acting Associate Regional Director Operations, SER
390 N. Orange Ave, Rm 220
Orlando, FL 32801-1640
Ph: 407-237-8824
[REDACTED]

SER docushare: <http://docs.uscis.dhs.gov/dsweb/View/Collection-11124>

"Every job is a self-portrait of the person who did it. Autograph your work with excellence."


From: [REDACTED]
Sent: Tuesday, May 31, 2011 3:07 PM
To: Terry.Tierney@dhs.gov; margaret.iglesias@dhs.gov
Subject: FW: ASSISTANCE REQUESTED
Importance: High

Dear Terry,

How am I supposed to contact the NBC as Ms. Iglesias is suggesting? There is no email address that I know of where I can make a query regarding my client's receipt number and why I cannot find it in your system???

[REDACTED]
Attorney at Law



Notice: If you are not the intended recipient of this email message, you may not review, retransmit, convert to hard copy, copy, use or disseminate this email or any attachment(s) to it. If you have received this email in error, please notify the sender immediately by return email or by telephone at  and delete the message. Thank you.

From: Iglesias, Margaret [mailto:Margaret.Iglesias@dhs.gov]
Sent: Tuesday, May 31, 2011 3:02 PM
To: Kira Romero
Subject: Re: ASSISTANCE REQUESTED




You need to follow the proper process for attorney inquires. You must email orl.aiala@dhs.gov. Also, if you are having issues to the receipt number you must contact the NBC who create the receipt. I have forward your request to our local ORL.Aiala mailbox.

Our engines are revvin in 2011

Margaret Iglesias, FOD
Orlando Field Office

By perseverance even the snail reached the ark.

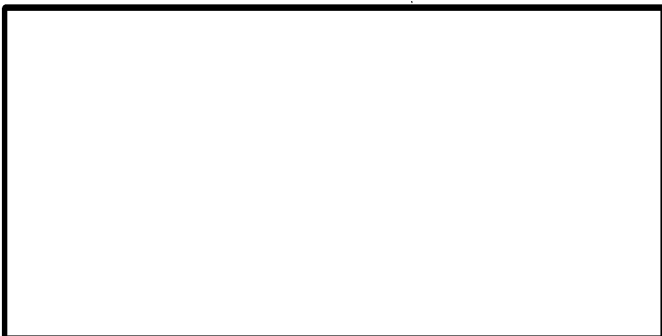
Sent from my BlackBerry Wireless Handheld

From: 
Sent: Tuesday, May 31, 2011 02:59 PM
To: Tierney, Terry <Terry.Tierney@dhs.gov>
Cc: Iglesias, Margaret <Margaret.Iglesias@dhs.gov>; Yeager-Bowser, Keri <Keri.Yeager-Bowser@dhs.gov>; Borjal, Ely P <Ely.Borjal@dhs.gov>
Subject: RE: ASSISTANCE REQUESTED

Thanks, Terry.

I did not send the request to our local office because my client had moved to Texas and I did not know if her file was now going to be sent to Texas because we did submit a change of address for her.

Do you know how long it will take to receive a response?



(b)(6)

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From: Tierney, Terry [mailto:Terry.Tierney@dhs.gov]
Sent: May 31, 2011 10:09 AM
To: [REDACTED]
Cc: Iglesias, Margaret; Yeager-Bowser, Keri; Borjal, Ely P
Subject: RE: ASSISTANCE REQUESTED

Good mornin [REDACTED]

It would be best that before coming to the SER for your inquiries, you go through the local office that handles the case. This will speed the process up.

I have forwarded this inquiry to the Orlando Field Office for processing/responding.

Have a great day!

Terry Tierney
Acting Associate Regional Director Operations, SER
390 N. Orange Ave, Rm 220
Orlando, FL 32801-1640
Ph: 407-237-8824
[REDACTED]

SER docushare: <http://docs.uscis.dhs.gov/dsweb/View/Collection-11124>

"Every job is a self-portrait of the person who did it. Autograph your work with excellence."

From: [REDACTED]
Sent: Friday, May 27, 2011 4:16 PM
To: Tierney, Terry
Subject: ASSISTANCE REQUESTED
Importance: High

Dear Terry,

I hope you are doing well.

I am having a problem with one of my SIJS case. My client's [REDACTED] receipt number is not found in the system and it has been over 60 days since we have received any notices related to her case. Her applications were filed on 01/13/2011 and we are reaching the 6 month mark on her SIJS case. This case involves a child in foster care who was moved to Texas but is now returning to Florida. I'd like to know what is going on in her case and to make sure that her adjustment interview is scheduled in Florida. We did file a change of address in her case when she was moved to Texas but I will be updating it to my address because I'm unsure where she'll be placed in Florida when she returns which will be the first week of June.

My client's [REDACTED] The receipt number for her I-485 application is [REDACTED] The CIS system is stating that this receipt number cannot be found.

Thank you.

(b)(6)

Kira



Notice: If you are not the intended recipient of this email message, you may not review, retransmit, convert to hard copy, copy, use or disseminate this email or any attachment(s) to it. If you have received this email in error, please notify the sender immediately by return email or by telephone at [redacted] and delete the message. Thank you.

Greenwood, Tembra A

From: Harrison, Julia L
Sent: Monday, January 23, 2012 11:08 AM
To: Ellis, Rachel
Subject: Accepted: Internal Engagement - Revisions to AFM ch. 12 and 15

Leigh, Leanne J

From: Corsano, Anne Arries
Sent: Thursday, April 14, 2011 9:26 AM
To: Wylie, Scott W; Brown, Keith M; Doody, Bernadette; Dougherty, Linda M; Sahli, Evelyn R; Wolder, Diana M
Cc: Leigh, Leanne J
Subject: FW: Field Interaction with Attorneys and Representatives

All, FYI. While I am not aware of any complaints on this topic at the moment, perhaps it is a good idea to provide your staff (down to the ISOs) with a reminder of the information contained below in Mr. Monica's message. Please do so orally. Thanks,

Anne Arries Corsano

District Director

Department of Homeland Security
US Citizenship and Immigration Services
District 20 - Washington, Oregon & Alaska
12500 Tukwila International Blvd.
Seattle, WA 98168
Tel. 206 241 3041
E-mail: Anne.Arries.Corsano@dhs.gov

From: Muzyka, Carolyn L
Sent: Thursday, April 14, 2011 7:50 AM
To: Arellano, Jane; Booe, Jim C; Corsano, Anne Arries; Crider, Larry; Curda, Susan M; Gulick, David; Kentfield, Lynn; Kramar, John; Pierre, Paul M; Rust, Maureen; Woo, Ellen Y; Young, Korie A
Subject: FW: Field Interaction with Attorneys and Representatives

DDs,

Please ensure that your field offices are aware of and in compliance with the guidance below.

Carolyn

From: Monica, Donald J [mailto:djmonica@fins3.dhs.gov]
Sent: Thursday, April 14, 2011 5:27 AM
To: Renaud, Tracy L; Upchurch, Evelyn M; Muzyka, Carolyn L; Redman, Kathy A; Goodwin, Shelley M; Garman, Gary G; Booe, Jim C; Tierney, Terry
Cc: Pietropaoli, Lori; Dominguez, Kathy; Harrison, Julia L; Cowan, Robert M; Robinson, Terri A
Subject: Field Interaction with Attorneys and Representatives

Field Leadership:

Please disseminate the following to all personnel who interact with attorneys and representatives.

We have received reports that several offices appear not to be in compliance with current USCIS practice when dealing with attorneys and representatives. Although Section 12 of the Adjudications Field Manual (AFM) related to this topic is being revised and is unavailable, several pieces of guidance are available including:

1. Section 15 of the AFM includes the following:

Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
- The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
- Officers should not engage in personal conversations with attorneys during the course of an interview.

2. Our public website has a summary of a Stakeholder meeting held in May 2010 and includes the following:

Role of the Attorney/Representative

Stakeholders continue to be concerned about how some attorneys are treated by USCIS adjudicators in the context of benefit interviews, particularly with regard to seating arrangements. FO leaders agree that, barring safety or security concerns, attorneys and/or accredited representatives should be able to sit next to their clients during benefit interviews. We are working on guidance to address concerns expressed by stakeholders and will post it once available on the USCIS website.

If an attorney or accredited representative feels that an adjudicator is asking inappropriate questions during the interview, they should ask to speak with a supervisor. USCIS has spent a considerable amount of time training the ISOs on interview techniques; the FO Directorate also has a quality assurance process on test administration to identify and address issues of concern.

The Agency respects the attorney-client relationship and asks that attorneys and accredited representatives likewise respect USCIS staff in the context of benefit and other interviews/interactions. Future guidance will address how ISOs should report instances involving perceived inappropriate conduct by attorneys and/or accredited representatives and also the reverse (i.e., how attorneys and/or accredited representatives should report perceived inappropriate behavior by ISOs).

3. Repeated below (although slightly edited) is an email from then Associate Director for Field Operations Debra Rogers which is still in effect.

Regards,
Donald J. Monica
Acting Associate Director
Field Operations

From: Rogers, Debra A
Sent: Thursday, March 18, 2010 11:04 AM:

Dear Field Operations Leadership Team:

I want to bring to your attention an issue of concern that was raised yesterday. Several in attendance at [the USCIS] stakeholder meeting noted their experience of not being treated properly during client interviews. In particular, stakeholders maintained that attorneys and/or accredited representatives are not allowed to sit beside their clients in some field offices. I

found this information troubling and at first doubted its veracity. To my surprise, however, it appears this practice is fairly standard in some USCIS offices.

Further, the practice has been reinforced by an interviewing techniques module delivered at ISO BASIC training. Officers are taught that an attorney or accredited representative accompanying an applicant should be seated "next to or behind" the applicant. In speaking with the training coordinator, I was informed that this directive was designed to address space constraints and the requirement that some interviews be video-taped. The training material advises that the applicant must always sit in front for full visibility, which is why attorney placement depending on the size and shape of the interview room can vary. This guidance will be removed from BASIC training and replaced with a more appropriate message.

Please advise all ISO's under your direction that it is essential to afford attorneys and accredited representatives the option of sitting next to their client whenever possible. The proximity of an attorney or accredited representative to his or her client is to be determined within that relationship, and not by us.

It has also come to my attention that in some USCIS offices, attorneys or accredited representatives are asked to sit in the back of the interview room based on the belief that such seating affords the ISO better control of the interview. This practice must cease immediately. Please talk to your ISO's about proper seating during adjudicative interviews, and the critical importance of USCIS not engaging in behavior that could be perceived as, or have the effect of, undermining the integrity of the attorney/client relationship.

Any concerns regarding disruptive behavior by a particular attorney or accredited representative should be raised through appropriate channels within the Office of the Chief Counsel.

Thank you for your hard work and dedication.

Debbie

Debra Rogers
Associate Director
Field Operations
USCIS

(b)(5)

Greenwood, Tembra A

From: Saucier, Shawn A
Sent: Tuesday, April 24, 2012 8:48 AM
To: Owen, Russell W
Cc: Kern, Suzanne C
Subject: RE: I-Pads
Attachments: Customer Cell Phone Usage Memo 4-16-2009.pdf

Hi Russ,

Rachel McCarthy, the USCIS Disciplinary Counsel, provided the attached 2009 memo that states cell phones or PDAs must be completely turned off during interviews. [REDACTED]

[REDACTED]

I'll let you know when I get a response.

Shawn Saucier

Immigration Services Officer
U.S. Citizenship and Immigration Services
Northeast Regional Office - Adjudications
Tele: (802) 660-5134
Fax: (802) 660-1192

From: Owen, Russell W
Sent: Tuesday, April 24, 2012 8:29 AM
To: Saucier, Shawn A
Subject: RE: I-Pads

We currently have a policy of not allowing cell phones to be answered/ used during interviews. [REDACTED]

[REDACTED]

Russell W. Owen
Chief of Staff
Newark Field Office

From: Saucier, Shawn A
Sent: Monday, April 23, 2012 4:35 PM
To: Owen, Russell W
Subject: RE: I-Pads

Hi Russ,

[Redacted]

The only thing I could find was 8 CFR 1003.12 (n) that discusses attorney conduct that undermines the integrity of the adjudicative process. (i.e. using cell phone to communicate with the applicant's spouse in the waiting room)

[Redacted]

Shawn Saucier

Immigration Services Officer
U.S. Citizenship and Immigration Services
Northeast Regional Office - Adjudications
Tele: (802) 660-5134
Fax: (802) 660-1192

From: Owen, Russell W
Sent: Thursday, April 12, 2012 4:07 PM
To: Saucier, Shawn A
Subject: RE: I-Pads

PS: Just heard from the attorney and he says he also has copies of his clients applications on his I-pad in case a question is raised at interview. He wants to try not carrying file folders with him. [Redacted]

[Redacted]

+++++

+++++

[Redacted]

Russell W. Owen
Chief of Staff
Newark Field Office

From: Saucier, Shawn A
Sent: Thursday, April 12, 2012 3:22 PM
To: Owen, Russell W
Subject: RE: I-Pads

Hi Russ,

Good question. I'll do some research, but I may have to send this up HQ.

[Redacted]

[Redacted]

Do attorneys ask to take notes during an interview using a laptop?

Shawn Saucier

Immigration Services Officer
U.S. Citizenship and Immigration Services
Northeast Regional Office - Adjudications
Tele: (802) 660-5134
Fax: (802) 660-1192

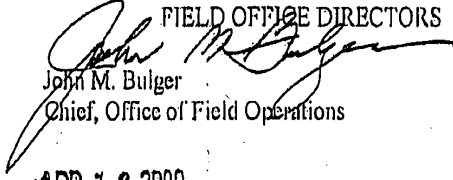
U.S. Department of Homeland Security
20 Massachusetts Avenue, N.W.
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

Interoffice Memorandum

MEMORANDUM FOR REGIONAL DIRECTORS
DISTRICT DIRECTORS
FIELD OFFICE DIRECTORS

From: 
John M. Bulger
Chief, Office of Field Operations

Date: APR 16 2009

SUBJECT: Customer Cell Phone Usage

This memorandum provides guidance for appropriate use of cell phones in areas in which U.S. Citizenship and Immigration Services (USCIS) Field Operations conducts business.

Background

With the growth of cell phone access and usage (and similarly-equipped Personal Digital Assistants - PDAs) by the general public, a new security issue has also been created. Although USCIS understands and supports individuals' rights to privacy, even when in the workplace, these devices can be used to create security risks because they can record, surreptitiously or covertly, conversations or pictures that can be harmful to USCIS, its employees and/or those benefiting from its services.

Guidance

1. Visitors of USCIS facilities will be permitted to possess cell phones (and PDAs); however, USCIS customers receiving services in facilities not controlled by USCIS will abide by cell phone policies established by the facility's respective building committee or security representatives.
2. Visitors are responsible for properly storing and securing phones; lost or stolen devices will not be the responsibility of USCIS.
3. Camera capabilities are not to be engaged except when observing naturalization ceremonies.
4. Cell phones should be silenced (on vibrate or low volume) while in the waiting area and any conversations should be kept to a low level so as not to disrupt others.
5. All phones must be completely turned off during interviews or while being served by USCIS staff or their representatives at the information counter.

Process

To ensure successful implementation of this guidance, USCIS field offices are encouraged to:

Memorandum for Regional Directors, District Directors, Field Office Directors
Subject: Cell Phone Usage (cont'd)

Page 2

1. Ensure all employees (Federal and contract) are aware of the cell phone usage policies and the prohibition against using any type of device to take pictures inside USCIS common areas, unless to record naturalization ceremonies.
2. Ensure all visitors are informed of the cell phone usage policies and prohibition against using any type of device to take pictures inside USCIS common areas (i.e., waiting rooms, restrooms).
3. Display posters and signage, regarding this guidance, in common areas.
4. Ensure this guidance is provided to security officials, as appropriate, so that it may be placed in the security guard orders as instructions for the security guards to use in handling visitors who violate camera/cell phone guidance. Violators will be required to leave the premises.

Vermont Service Center

**IMMIGRATION SERVICES
OFFICER
RESPONSIBILITIES**

Prepared by: Center Training Unit
Vermont Service Center

March 26, 2010

Attorneys

Basis in Law

Section 292 of the Immigration and Nationality Act (INA) allows an individual to be represented by an attorney or certain other individuals for a variety of immigration related matters.

Assuming there is a valid Form G-28 on file and the attorney is otherwise qualified to represent the individual, you must recognize, respect, and honor the individual's choice to utilize an attorney to represent him or her.

The Goal of the Attorney

Many of the attorneys who represent petitioners/applicants filing with USCIS, practice immigration law exclusively and are well versed in the standards that should be applied by the service centers, district offices, ports of entry, and consular posts when processing requests for benefits.

Although investigations have identified a few unscrupulous attorneys, most attorneys are quite familiar with statutory, regulatory, and evidentiary requirements and make every effort to put forth well documented applications/petitions for qualified candidates.

Many attorneys go to considerable effort in order to attend the various VSC outreach efforts throughout the course of the year in order to pick up filing tips, get a better understanding of the VSC processes and to engage in dialogue with the VSC representatives.

The attorney's primary goal is to make every effort to present a case in a manner that is more efficient and easier for you to adjudicate.

Continued on next page

Attorneys, Continued

Representing Their Clients

Attorneys are advocates for petitioners and applicants who are paid to achieve a favorable decision from U.S. Citizenship and Immigration Services (USCIS). Petitioners and applicants will pay thousands of dollars to an attorney in order to put forward a case that will result in the granting of an immigration benefit. Since attorneys are looking out for the best interest of their clients, we should not expect them to point out the weaknesses in their filings.

The attorney's clients are expecting their case to be presented as if it were the most approvable case ever filed. If you or I were to hire an attorney to represent us, we would expect nothing less. Do not expect attorneys to be impartial. That is not why they are hired, nor is that what they are paid for. It is we, federal employees, who are hired and paid to be impartial.

Remain Impartial

Attorneys have a job to do. Immigration Services Officers have a job to do. Attorneys and Immigration Services Officers may disagree at times, but we should always treat each other with respect and perform our duties without animosity.

There may be times when an attorney uses a tactic that appears less than appropriate. We must rise above reacting to such prompting and tactics. The applicable laws, regulations and evidence presented must always be the basis for the decisions you render.

Vermont Service Center

**IMMIGRATION SERVICES
OFFICER
RESPONSIBILITIES**

Prepared by: Center Training Unit

March 16, 2012

Attorneys

Basis in Law

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The attorney's primary goal is to make every effort to present a case in a manner that is more efficient and easier for you to adjudicate.

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Continued on next page

Attorneys, Continued

**Remain
Impartial**

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There may be times when an attorney uses a tactic that appears less than appropriate. We must rise above reacting to such prompting and tactics. The applicable laws, regulations and evidence presented must always be the basis for the decisions you render.

Greenwood, Tembra A

From: Maxim, Melissa on behalf of NERADJ-SURVEYS
Sent: Wednesday, February 29, 2012 3:38 PM
To: #NER-DD-FOD-COS
Cc: Goodwin, Shelley M; Kern, Suzanne C; Saucier, Shawn A; Bibona, Lisa M; Bielicki, John S; Wells, Vicki L; Cutler, Maegan M; O'Neill, Anne M
Subject: Action Due by COB March 6, 2012 - Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances
Attachments: PROFESSIONAL CONDUCT NPRM.2-23-12.CLEAN.docx; NER Document Comment Form - Professional Conduct for Practitioners.docx

Field Leadership;

Attached for your review are proposed rules regarding Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances. With this rule, Department of Homeland Security (DHS) proposes changes to regulations and procedures for professional conduct for practitioners representing individuals in immigration matters before DHS.

Background

DHS is responsible for regulating immigration practitioners before U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP). The U.S. Department of Justice (DOJ), through the Executive Office for Immigration Review (EOIR), is responsible for regulating immigration practitioners before the Board of Immigration Appeals (Board) and the immigration courts. Because of this division of responsibility, DHS is attempting to make every effort to improve the uniformity between the DOJ and DHS rules.

In 2008, DOJ published a final rule updating its regulations on professional conduct for practitioners. In response, on February 2, 2010, DHS promulgated an interim rule that was intended to: conform the grounds of discipline and procedures regulations with DOJ regulations; clarify who is authorized to represent applicants and petitioners in cases before DHS; remove duplicative rules, procedures, and authority; improve the clarity and uniformity of existing regulations; make technical and procedural changes; and conform DHS and DOJ terminology for agencies and components.

DHS now proposes to further revise its professional conduct regulations to:

- -
 -
 -
-

Request

Please review the proposed rule and provide comments using the attached NER Document Comment Form. When applicable, list a page or subject reference next to the relevant comment. Comments that will provide the most assistance in developing these procedures will reference a specific portion of this rule, explain the reason for any recommended change, and include data, information, or authority that support the recommended change.

Action

Please submit your response to this survey via email to the NERADJ-SURVEYS Outlook account by **COB Tuesday, March 6, 2012**. When submitting your response, please use the same subject line as this email, but add your three letter Field Office code. Negative responses are required.

Thank you for your input,
Missy

(b)(5)

9111-97

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 1 and 292

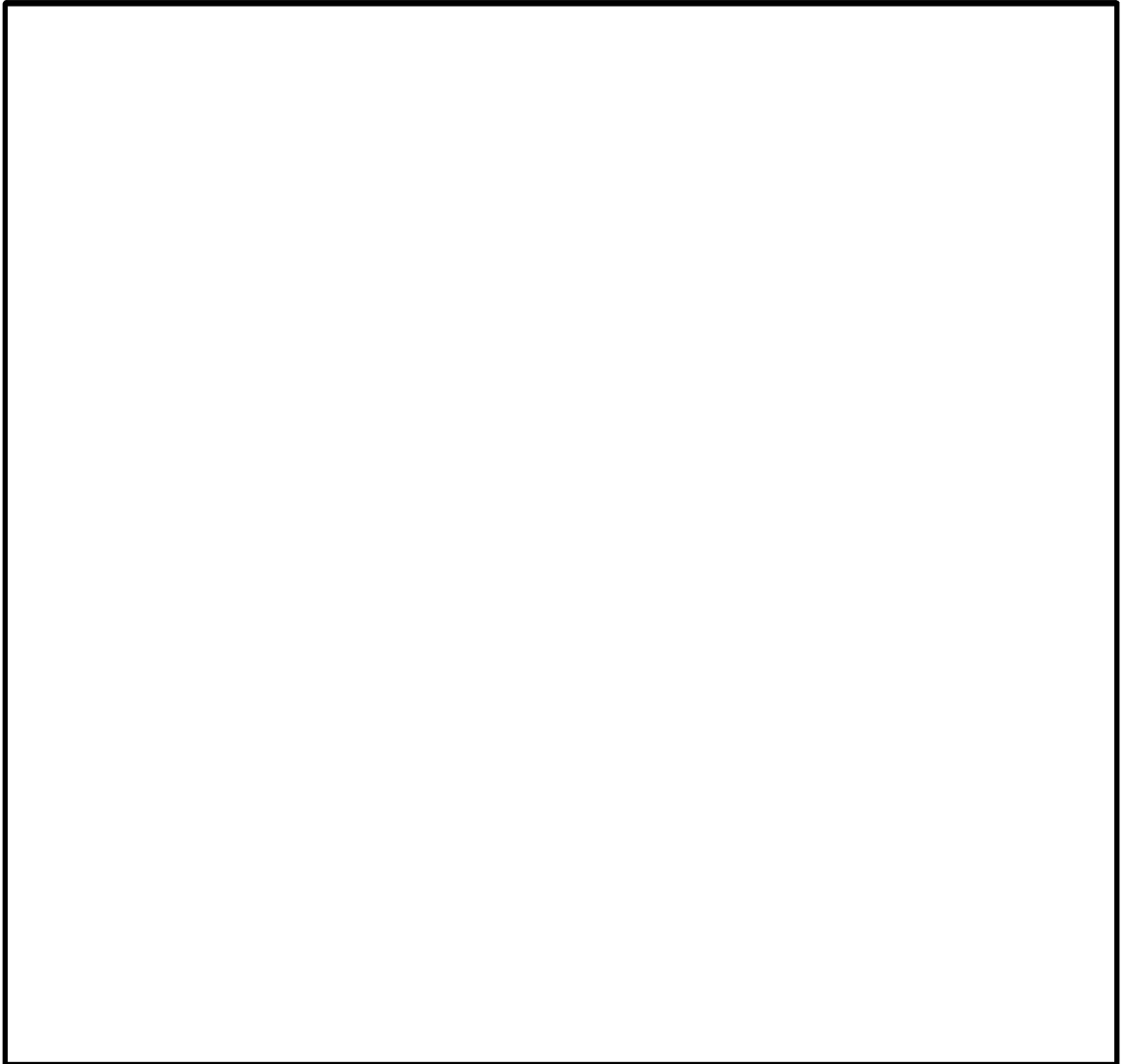
[DHS Docket No. USCIS-2012-XXXX]

RIN 1601-AAXX

**Professional Conduct for Practitioners: Rules, Procedures, Representation, and
Appearances**

AGENCY: Office of the Secretary, DHS.

ACTION: Proposed rule.



(b)(5)

(b)(5)

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NER Document Comment Form

TITLE OR DESCRIPTION OF DOCUMENT: Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances

COMMENTS PROVIDED BY: _____ **DATE:** _____

#	Page #, Section, Paragraph, or Line Location	COMMENT DESCRIPTION
---	--	---------------------

#	Reference	RED FLAG / CRITICAL COMMENTS
1.		
2.		
3.		
4.		
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#	Reference	GENERAL COMMENTS
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(b)(5)

Greenwood, Tembra A

From: Kern, Suzanne C
Sent: Thursday, March 08, 2012 12:37 PM
To: Zhang, Sharon
Cc: Goodwin, Shelley M
Subject: RE: Action Due by COB on March 8th 2012: Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances
Attachments: PROFESSIONAL CONDUCT NPRM.2-23-12.CLEAN.DOCX; 03-08-2012 HQ FINAL Document Comment Form - Professional Conduct for Practitioners.docx

Sharon,

Attached please find NER's comments on the Professional conduct proposed rule.

Thank you,

Suzanne Kern
Assistant Regional Director, Adjudications
Northeast Regional Office - USCIS
Ph: (802)660-5119
Fax: (802)660-1192

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From: HQ Field Operations
Sent: Tuesday, February 28, 2012 04:32 PM
To: Benavides, Jaime L; Benton, Shelia G; Campagnolo, Donna; Krebs, Kristie; Rawls, Sheila D; Thomas, Sharon R; Vantran, Lynne E; Blackburn, Brandi A; Brecht, Jeffrey T; Campagnolo, David; Cowan, Robert M; Dean, Kimberly D; Fontanez, Andrew V; Gallagher, Kevin E; Gallagher, Rand; Garman, Gary G; Goodwin, Shelley M; Haag, Andrew P; Langton, Lynn M; Muzyka, Carolyn L; Pietropaoli, Lori A; Redman, Kathy A; Renaud, Tracy L; Robinson, Terri A; Rust, Maureen; Schlesinger, Paul L; Tauchen, Robert B; Tierney, Terry; Upchurch, Evelyn M; Wolfe, David J; Woo, Ellen Y; White, Carla
Cc: Monica, Donald J; Dominguez, Kathy; Harrison, Julia L; Christian, Gregory W; HQ Field Operations; Gallagher, Ellen M
Subject: Action Due by COB on March 8th 2012: Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances

Good afternoon Field Operations Leadership Team,

Attached for your review is proposed rule regarding Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances. With this rule, DHS proposes changes to rules and procedures for professional conduct for practitioners representing individuals in immigration matters before DHS.

On February 2, 2010, DHS promulgated an interim rule to



Please provide your comments and suggested edits to HQ Field Operations mailbox by COB on Thursday, March 8, 2012. I have also attached our comment form for your convenience.

Thanks much,

Sharon

(b)(5)

Sharon Zhang | DHS | USCIS | Field Operations Directorate

Tel: (202) 272-1702 | Fax: (202) 272-1008

Email: Sharon.Zhang@dhs.gov

(b)(5)

NER Document Comment Form

TITLE OR DESCRIPTION OF DOCUMENT: Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances		
COMMENTS PROVIDED BY:		DATE:
#	Page #, Section, Paragraph, or Line Location	COMMENT DESCRIPTION
#	Reference	RED FLAG / CRITICAL COMMENTS
1.	General	
2.		
3.		
4.		
5.		
6.		
#	Reference	GENERAL COMMENTS
7.	Page 12, Section 1.2	
8.		
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15.		
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19.		

Greenwood, Tembra A

From: O'Neill, Anne M
Sent: Tuesday, January 31, 2012 12:19 PM
To: Clum, Teresa
Cc: Kern, Suzanne C
Subject: Unaccredited Representation for Form N-600 Cases

Teresa –

We want to advise you about two immigration preparers who may attempt to communicate directly with the NBC regarding case they've filed on behalf of Form N-600 applicants. They are:

NAME EMAIL ADDRESS

--	--

Our USCIS office in MAN has received numerous Form N-600k applications from these preparers. Neither an email address nor a phone number is included on these applications; therefore, USCIS is unable to communicate directly with them. These preparers have failed to provide documents that they are accredited representatives or attorneys with a Form G-28 on file. In the past these preparers acted as attorneys and advocates for applicants and were the sole connection between USCIS and the applicants. Since the applicants are in Israel, we are unable to determine if the addresses provided belong to the preparers or the applicants.

Consequently, the Field Office Director in MAN advised the preparers that we will no longer accept any communication from them via email, mail or telephone in reference to any application. The FOD also advised them that they may still prepare the applications and mail them to the appropriate USCIS address, but our dealings will be strictly with the applicants.

Please contact me if you have any questions.

Anne M. O'Neill | DHS | USCIS | Northeast Regional Office | South Burlington, VT 05403 | ☎ 802-660-5136 | ✉ anne.oneill@dhs.gov

Warning: This email contains a document (s) categorized as FOR OFFICIAL USE ONLY (FOUO). The document (s) contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). This email and its attachment (s) are to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to Sensitive But Unclassified (SBU) information and are not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval from the originator.

Greenwood, Tembra A

From: INTERNAL COMMUNICATIONS, USCIS
Sent: Friday, January 13, 2012 2:07 PM
Subject: USCIS Leadership Guidance#09-12

Interim Policy Memorandum: PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives



**U.S. Citizenship
and Immigration
Services**
Office of Communications

Leadership Guidance

January 13, 2012
#09-12

Interim Policy Memorandum

USCIS has cleared the following interim policy memorandum for distribution: **(Final date for comments: Feb. 14, 2012)**

- PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

There will be opportunities for field leadership to provide their input. Details on an internal USCIS engagement will come next week.

Draft and interim policy memos will be posted on www.uscis.gov/outreach for stakeholder review and comment. Interim and final policy memos are official USCIS policy documents and effective the date the memos are approved.

Visit the [Feedback Opportunities Web page](#) on Connect for additional information.

The USCIS Leadership Guidance is a product of the USCIS Office of Communications. To submit questions or cleared items, or to access previous Leadership Guidance, email [USCIS Internal Communications](#).

should still consider statements and submissions by the individual's attorney or other representative in his or her absence.

7. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants, as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and the person being interviewed, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless this cannot be accommodated due to the physical layout of the interview space. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area should be reasonably near the interview area to minimize lost time between interviews.

8. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both men and women should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being interviewed.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the person being interviewed becomes abusive or if derogatory information is developed. If necessary, contact a supervisor. See section 15.4(e) for guidance on Concluding or Terminating an Interview.
- Be fair, courteous, and patient without diminishing a full and complete development of the material facts, whether they are favorable or adverse to the person being interviewed or any other person.
- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.

- Ensure that your demeanor does not imply or reflect prejudice. Interviews should proceed in a fair and impartial manner so as to avoid complaints regarding the conduct of USCIS officers.

9. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the person(s) being interviewed) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / person being interviewed(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review

of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case.

(c) At the Interview

- Greet the person being interviewed in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) being interviewed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such a statement is not taken, the memorandum record of the interview should show that the person being interviewed was under oath or affirmation.
- An applicant or his or her attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- The person(s) being interviewed should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. USCIS officers are reminded that the purpose of the interview is to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government, in order to properly adjudicate the application or petition.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The person(s) being interviewed(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The person being interviewed is unable to communicate without an interpreter, and one is not available.
- An interpreter clearly has difficulty translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The person being interviewed refuses to respond to questions essential to the successful completion of the interview.
- The conduct of the attorney or other representative has exceeded the bounds of zealous representation and interferes with the ability of the officer to conduct the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the person being interviewed(s) or the attorney or other representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or the attorney or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An applicant or petitioner, or attorney or accredited representative with a properly executed "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28), may request a copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer, by filing a Freedom of Information/Privacy Act Request (Form G-639).³⁹

[See also Appendix 15.2, Techniques for Interviewing and Preparing Sworn Statements.]

³⁹ 8 CFR 292.4(b) (2011)

☞ 10. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 5/23/2012	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(a)• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12, Private Attorneys and Other Representatives; new Appendix 12-1, Sample Affidavits; and revisions to Chapter 15.1(a), Chapter 15.1(b)(2), Chapter 15.2, Chapter 15.3, and Chapter 15.4.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

From: Siebert, Hans J
Sent: Tuesday, July 31, 2012 10:13 AM
To: Belyn, Celia J; Carter, Linda J; Galli, Kokou D; Lipchak, Lauren A; Martin, Deborah
Cc: Reffel, Frank C
Subject: Representation at Interview

All,
based on an inquiry the FOD has re-iterated Service policy on this issue.

Law students are permitted to attend interviews, as long as they are under the direct supervision of the attorney of record. If the student was appearing without the attorney of records USCIS would simply need a statement that he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization and is appearing without direct or indirect remuneration from the individual he or she represents.

If the student attends the interview with the attorney of record, no further documentation is needed.

You can find further clarification on CISConnect at the following link.

http://connect.uscis.dhs.gov/workingresources/Source/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-2170/Chptr12_1.html

From: Reither, Stephanie
Sent: Thursday, September 27, 2012 4:35 PM
To: Baker, Lynette D; Belyn, Celia J; Carter, Linda J; Causey, Odette B; Galli, Kokou D; Jackson, Lori J; Jones, Kathy H; Lipchak, Lauren A; Martin, Deborah; Martin, Omer R; Osinski, Carolyn M; Reffel, Frank C; Siebert, Hans J
Subject: Professionalism and Customer Service Reminders

Professionalism and Customer Service Reminders

- Employees' cell phones should be on silent or vibrate. Employee should not talk on the phone when assisting or interviewing a customer.
- Offices should be inviting and a welcoming environment. All negative or warning notices documents posted in individual offices must be removed.
- Employees should refrain from advising or making comments to customers about what their attorney is responsible for or should be doing for them. We are not involved in the attorney- client relationship and therefore we do not comment about it.
- If a customer or member of AILA requests to speak with a supervisor regarding a complaint an employee should immediately contact a SISO or if no SISO is available the FOD. This does not apply to general INFO Pass appointments which should be handled on a case by case basis.

- Employees should keep to the facts of a case. Employees must refrain from making personal judgments and/or comments regarding a customer's situation or their response to a specific question.
- Employees need to be conscious and refrain from having discussion in the hallways and public areas that may be disruptive to ongoing interviews or that could be overheard by the public.
- PII must always be protected; PII should not be left out in plain view of the public.

Stephanie Reither

Field Office Director
U.S. Citizenship and Immigration Services

Norfolk Field Office
5280 Henneman Drive
Norfolk, VA 23513

Phone: 757-858-6140 Fax: 757-858-6273

From: Jones, Kathy H
Sent: Tuesday, March 05, 2013 10:52 AM
To: Causey, Odette B; Galli, Kokou D; Jackson, Lori J; Martin, Deborah; Osinski, Carolyn M
Cc: Siebert, Hans J
Subject: Parole in Place (I131s)

Officers,

Per the FOD, if an applicant/attorney files an I131 with or without fee, please return this form and fee to the applicant/attorney when filed.

Kathy Jones, SJSO | USCIS | Norfolk Field Office | ☎ [\(757466-3123\)](tel:7574663123) Kathy.H.Jones@uscis.dhs.gov

15.2 Interview Environment.

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desk tops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants as these may be distracting or detract from the serious nature of the proceedings.

Because Adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for adjustment, naturalization, marriage fraud and conditional resident removal interviews, it is essential that adequate office space be provided for each district adjudications officer. Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Sufficient seating for the officer and applicant, attorney and family members should be provided. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. Handicapped access should be available in at least some work stations. A public waiting area should be reasonably proximate to the interview area to minimize lost time between interviews.

15.3 Officer Conduct and Appearance.

(a) Appearance. It is imperative that the officer conducting the interview dress in a professional manner. Both males and females should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude. All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next questions. Avoid USCIS jargon.

- At all times maintain due regard for the rights of the person being questioned.
- Avoid arguments with the person being interviewed, as well as remarks of personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments, as they are irrelevant to the purpose of the interview and detract from the professional demeanor the officer should maintain. Do not make any comments which might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the interviewee becomes abusive or if derogatory information is developed.
- Be fair, courteous, and patient without diminishing in any degree full and complete development of the material facts, whether they be favorable or adverse to the person being interviewed or any other person.
- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.
- Ensure that your demeanor is unprejudiced, impartial, and creates no foundation for complaints that you have been unfair or have used any mistreatment or duress.

15.4 Interview Procedures.

(a) Basic Interview Procedures and Techniques. Conducting successful interviews and interrogations is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant, others change according to the circumstances. The following observations apply to all interviews:

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the interviewee(s) themselves) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / interviewee(s) to bring the originals of all

documents previously submitted as photocopies. (Whether the interviewing officer chooses to examine them during the interview or not, the original documents should be available.)

- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order that the adjudicator will have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review of the applicable provisions of the law and precedent decisions also should be made, if necessary, to insure thorough familiarity with any legal issue involved which is to be developed by questioning. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition, needless questions, or illogical rambling.
- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of preliminary preparation necessary depends upon the issues involved in the individual case.
- In "marriage fraud" interviews or certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify discrepant answers. It may be necessary to recall the first party for further questioning after the second party provides discrepant answers. In other types of interviews, an entire family group may be interviewed collectively.
- Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.
- Greet the interviewee in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving name and title.

- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview including interpreters and attorneys, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"

The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony which he is about to give. The adjudicator and the person(s) to be sworn or affirmed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such statement is not taken, the memorandum record of the interview should show that the person was under oath or affirmation.

- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- It should be kept in mind that all questions are either "closed-ended" or "open-ended". Closed-ended questions (such as "Have you ever been arrested?") call for specific, factual and usually brief responses. Open-ended questions ("Tell me about any arrest you have had.") solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses. They are normally of much greater usefulness in assessing an individual's credibility and for eliciting statements which may later be supported and contradicted. Generally, leading questions (such as "You have never been arrested?") which assume a controversial fact or suggest the answer (usually "yes" or "no") should be avoided except to expedite obtaining preliminary identifying material.
- Persons being questioned should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. In this connection, however, remember that an adjudicator is duty-bound to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government.

- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.
- An alien, or attorney with a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28), may request a personal review and/or copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer. The requesting party may file a Freedom of Information/Privacy Act Request (Form G-639) with USCIS to gain access to other record material.

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

(b) Terminating the Interview. An adjudicator should not unnecessarily prolong an interview, but should terminate it when all necessary information has been elicited. The subject(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited. The most common reasons for such a termination are:

- The interviewee is unable to communicate without an interpreter and one is not available.
- An interpreter clearly has difficulty in translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney insists on responding to questions or coaching the person being interviewed.
- The subject refuses to respond to questions essential to the successful completion of the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the subject(s) or representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or representative if they refuse to accept an unfavorable determination.

15.8 Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
- The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
- Officers should not engage in personal conversations with attorneys during the course of an interview.

¹⁵ 8 CFR 1.2 (2011)

¹⁶ 8 CFR 1.2 (2011)

¹⁷ 8 CFR 1.2 (2011)

¹⁸ 8 CFR 292.1(a)(2) (2011)

¹⁹ 8 CFR 292.1(a)(2) (2011)

²⁰ 8 CFR 292.1(a)(2)(iv) (2011)

²¹ 8 CFR 292.1(a)(2) (2011)

²² 8 CFR 292.1(a)(3) (2011)

²³ 8 CFR 292.1(a)(3)(iii) (2011)

²⁴ 8 CFR 292.1(a)(3)(iv) (2011)

²⁵ 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

²⁶ 8 CFR 103.2(a)(3) and 292.5(a) (2011)

²⁷ 8 CFR 292.1(a)(5) (2011)

\\afm\Adjudicator's Field Manual\Chapter 12 Attorneys and Other Representatives\12.6 Role of USCIS District Directors in the Board of Immigration Appeals
Recognition and Accreditation Process
Previous Document Next Document

- The statement from the law student or law graduate may be attached to the Form G-28 filed by the supervising attorney or accredited representative, or submitted in person at a USCIS office. (See Sample Statement in Appendix 12.1.)
- Law students and law graduates must seek permission from the DHS official before whom they seek to appear with an applicant or petitioner in person at a USCIS office²⁰. If the DHS official does not permit a law student or law graduate to appear, the reason for this decision shall be provided to the law student or law graduate in writing.
- The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate²¹. Law students and law graduates who are accompanied by the supervising attorney or accredited representative shall be permitted to appear at the interview or other examination.
- If the USCIS officer observes an action by a law student or law graduate that provides good cause for the officer to believe that the representation by the law student or law graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative if they are not present.
- All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the Form G-28 (not the law student or law graduate). Law students and law graduates who have submitted a statement with the information required in 8 CFR 292.1(a)(2) may communicate in writing with USCIS with regard to procedural issues, such as rescheduling of interviews or biometrics appointments. Substantive filings, such as the filing of briefs or submission of evidence, require the signature of the supervising attorney or accredited representative.

(f) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must not receive payment directly or indirectly for his or her representation²². A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²³

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12.1.)
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²⁴
- USCIS does not accept Forms G-28 filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²⁵
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in-person in that case.
- USCIS does not send notices or other written communications to reputable individuals.²⁶

(g) Accredited Officials

An **accredited official** of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant's or petitioner's consent.²⁷

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See Sample Statement in Appendix 12.1.)
- USCIS does not send notices or other written communications to accredited officials.²⁸

NOTES

¹ 8 CFR 103.2(a)(3) (2011)

² 8 CFR 292.5(b) (2011). Refugee applicants do not have the right to representation, as such applicants are deemed to be applicants for admission. Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Accordingly, this guidance does not apply to the Refugee Affairs Division or the Asylum Division of the Refugee, Asylum, and International Operations Directorate, which are governed by other established procedures, guidance, and lesson plans. This guidance does not apply to site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

³ 8 CFR 103.2(a)(3) (2011)

⁴ 8 CFR 1.2

⁵ 8 CFR 1.2

⁶ 8 CFR 292.1(a)(2) (2011)

⁷ 8 CFR 292.1(a)(5) (2011)

⁸ Id.

⁹ 8 CFR 1.2 (2011)

¹⁰ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹¹ 8 CFR 292.1(a)(6) (2011)

¹² 8 CFR 292.4(a) (2011); Instructions for Form G-281 (04/22/09)

¹³ 8 CFR 292.1(a)(4) & 8 CFR 292.2

¹⁴ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

AFM \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives \ 12.6 Rule of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.
[Previous Document](#) [Next Document](#)

12.1 Representation before USCIS (Revised 5/23/2012; PM-602-0055.1, AD11-42)

(a) General

An applicant or petitioner may be represented in matters filed with USCIS¹. Whenever an examination is provided for under the regulations, the person involved has the right to be represented by an attorney or representative before USCIS².

Title 8 CFR 292.1 lists the categories of individuals who may represent a "person entitled to representation" before DHS, "subject to the limitations in 8 CFR 103.2(a) (3)." An applicant or petitioner may be represented by an attorney in the United States; an attorney outside the United States (in matters occurring outside the geographical confines of the United States); or an accredited representative of a recognized organization³. Only these categories of representatives may file a notice of appearance on Form G-28 or G-281 in an application or petition proceeding before USCIS.

Law students and law graduates may engage in practice⁴ and preparation⁵ under the requirements described in the regulations⁶ but may not be the official representative of record on Form G-28. USCIS provides notices in writing to the supervising attorney or accredited representative identified as the representative on the Form G-28. Law students and law graduates may attach a statement with the information required in 8 CFR 292.1(a)(2) to the Form G-28 filed by their supervising attorney or accredited representative, or in person at a USCIS office. A law student or law graduate who has filed the required statement in a case may communicate with USCIS in writing. Substantive filings require the signature of the supervising attorney or accredited representative. See section 12.1(e) for additional information.

Reputable individuals and accredited officials may assist a person entitled to representation before USCIS. Unless otherwise licensed to do so, reputable individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office. These individuals may not file a Form G-28. They must provide a written declaration to the USCIS official before whom they seek to appear, and may participate in the interview process only if that official permits their appearance. The original of this written declaration is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding. An accredited official of the government to which an applicant or petitioner owes allegiance may appear at an interview solely in his or her official capacity and only with the applicant's or petitioner's consent⁷. See section 12.1(f) for additional information.

USCIS does not provide notices in writing to reputable individuals or accredited officials⁸.

(b) Attorneys in the United States

An "attorney" is any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.⁹

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the [DHS Disciplinary Counsel website](#) for information on how to verify the eligibility of an attorney.
- An attorney must submit an "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹⁰

(c) Attorneys outside the United States

An "attorney outside the United States" is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹¹

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confiners of the United States" (Form G-281) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹²

(d) Accredited Representative

An "accredited representative" is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) and has been accredited by the BIA to represent others in immigration proceedings before the immigration courts and the BIA of the Executive Office for Immigration Review and/or DHS.¹³

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and/or DHS at www.justice.gov/eoir/legalrepresentation.htm. Accredited representatives who are listed as "partially accredited" are authorized to practice only before DHS.
- Accredited representatives must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁴

(e) Law Students and Law Graduates not yet admitted to the bar

Law students who are enrolled in an accredited U.S. law school and law graduates of an accredited U.S. law school who are not yet admitted to the bar may engage in practice¹⁵ and preparation¹⁶, constituting representation¹⁷ under supervision as required in 8 CFR 292.1(a)(2):

- The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in application and petition proceedings before USCIS.
- A law student enrolled in an accredited U.S. law school must file a statement that he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization and is appearing without direct or indirect remuneration from the individual he or she represents.¹⁸
- A law school graduate of an accredited U.S. law school who is not yet admitted to the bar must file a statement that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.¹⁹

§ Sec. 292.1 Representation of others.

(a) A person entitled to representation may be represented by any of the following, subject to the limitations in 8 CFR 103.2(a)(3): (Introductory text revised effective 3/4/10; 75 FR 5225.)

(1) Attorneys in the United States. Any attorney as defined in 8 CFR 1.2. (Amended effective 11/28/11; 76 FR 53764)

(2) Law students and law graduates not yet admitted to the bar. A law student who is enrolled in an accredited U.S. law school, or a graduate of an accredited U.S. law school who is not yet admitted to the bar, provided that: (Introductory text revised effective 3/4/10; 75 FR 5225.)

(i) He or she is appearing at the request of the person entitled to representation;

(ii) In the case of a law student, he or she has filed a statement that he or she is participating, under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization; and that he or she is appearing without direct or indirect remuneration from the alien he or she represents. (Revised 10/15/96; 61 FR 53609.) (Revised effective 6/2/97; 62 FR 23634.)

(iii) In the case of a law graduate, he or she has filed a statement that he or she is appearing under the supervision of a licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration from the alien he or she represents; and (Revised 10/15/96; 61 FR 53609.) (Revised effective 6/2/97; 62 FR 23634.)

(iv) The law student's or law graduate's appearance is permitted by the DHS official before whom he or she wishes to appear. The DHS official may require that a law student be accompanied by the supervising faculty member, attorney, or accredited representative. (Revised effective 3/4/10; 75 FR 5225.) (Revised effective 6/2/97; 62 FR 23634.)

(3) Reputable individuals. Any reputable individual of good moral character, provided that:

(i) He is appearing on an individual case basis, at the request of the person entitled to representation;

(ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;

(iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and

(iv) His or her appearance is permitted by the DHS official before whom he or she seeks to appear, provided that such permission will not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself or herself out to the public as qualified to do so. (Revised effective 3/4/10; 75 FR 5225.)

(4) Accredited representatives. A person representing an organization described in Sec. 292.2 of this chapter who has been accredited by the Board.

(5) Accredited officials. An accredited official, in the United States, of the government to which an alien owes allegiance, if the official appears solely in his official capacity and with the alien's consent.

(6) Attorneys outside the United States. An attorney, other than one described in 8 CFR 1.2, who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice, may represent parties in matters before DHS, provided that he or she represents persons only in matters outside the geographical confines of the United States as defined in section 101(a)(30) of the Act, and that the DHS official before whom he or she wishes to appear allows such representation as a matter of discretion. (Amended effective 11/28/11; 76 FR 53764.) (Revised effective 3/4/10; 75 FR 5225.)

(b) Persons formerly authorized to practice. A person, other than a representative of an organization described in Sec. 292.2 of this chapter, who on December 23, 1952, was authorized to practice before the Board and the Service may continue to act as a representative, subject to the provisions of Sec. 292.3 of this chapter.

(c) Former employees. No person previously employed by the Department of Justice shall be permitted to act as a representative in any case in violation of the provisions of 28 CFR 45.735 - 7.

(d) Amicus curiae. The Board may grant permission to appear, on a case-by-case basis, as amicus curiae, to an attorney or to an organization represented by an attorney, if the public interest will be served thereby.

(e) Except as set forth in this section, no other person or persons shall represent others in any case.

[40 FR 23271, May 29, 1975, as amended at 53 FR 7728, Mar. 10, 1988]

15.8 Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
- The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
- Officers should not engage in personal conversations with attorneys during the course of an interview.

15.8 Role of Attorney or Representative in the Interview Process.

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- Officers should not engage in personal conversations with attorneys during the course of an interview.



Questions and Answers

USCIS Field Operations Directorate – American Immigration Lawyers Association (AILA) Liaison Meeting

May 20, 2011

Overview

On May 20, 2011, the USCIS Field Operations Directorate hosted an engagement with AILA representatives. USCIS discussed issues related to operations and adjudications. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

Questions & Answers

Question 1: Appeal Procedures for I-130 Denials by USCIS Local Offices and USCIS Service Centers

Under 8 CFR §1003.1(b), the Board of Immigration Appeals (BIA) has appellate jurisdiction over the denial of an I-130 petition. According to Form EOIR-29, I-130 appeals must be filed with the local USCIS office or a USCIS service center having administrative control over the denied petition.

AILA members have reported extensive processing delays of I-130 appeals. In addition, inquiries made through InfoPass or to NCSC are not successful.

- a. What are USCIS's procedures for processing Forms EOIR-29 filed in connection with a denied I-130?

USCIS Response: Form EOIR-29 must be filed directly at the Field Office having jurisdiction over the petition. The denial should list the field office and address where Form EOIR-29 and all required documents including the appropriate filing fee, should be filed. USCIS provides a receipt of filing. A USCIS memo, *Guidance on Uniform Denial Language Pertaining to Appeals to the Board of Immigration Appeals* (PM-602-0006) (August 26, 2010), states that all denial notices must inform the petitioner that the brief must be received no later than 30 days

USCIS Response: Over the past several years USCIS has instituted several tools to assist customers in obtaining information about their case status. These tools include “My Case Status,” the National Customer Service Center, and Infopass appointments. For general case status inquiries, all customers, including attorneys, should use these tools. Field Operations has discouraged the use of special email addresses for certain stakeholders as it provides unequal access and is fundamentally unfair particularly for applicants who file *pro se*. If you have an inquiry, we recommend that you submit your questions through established processes. If you feel that your inquiry was not responded to appropriately, you are encouraged to raise your concerns to a supervisor.

- b. Where attorneys are scheduled for multiple interviews simultaneously, there appears to be no policy or procedure to communicate with the field office to work out a resolution and re-schedule appointments. When two interviews are scheduled for the same attorney on the same date, at the same time, what steps should the attorney take to notify the Field Office of the scheduling conflict? Will the field office reschedule the interviews to ensure that the attorney can appear with both clients?

USCIS Response: Please follow the instructions on the appointment notice to request that one of the interviews be rescheduled. You may also make a rescheduling request by contacting the National Customer Service Center (NCSC) at 1-800-375-5283.

- c. Appointments are sometimes scheduled with only ten days notice between the mailing and notice date and the date of the interview. This leaves little time for the applicants to make any necessary arrangements to attend the interview (request time off from work, secure child care, etc.) and to adequately prepare for the interview. Is it possible to extend the period of notice for the interview to a more reasonable time?

USCIS Response: USCIS strives to process and adjudicate applications in a timely manner and we believe that customers appreciate these efforts. If an applicant cannot attend a scheduled interview, he or she may request that the interview be rescheduled. Please keep in mind, however, that a request to reschedule an interview may delay the processing of the case.

Question 4: Right to Effective Representation during Interviews of Applicants and Petitioners

- a. Section 15.8 of the USCIS *Adjudicator's Field Manual* (AFM), “Role of Attorney or Representative in the Interview Process” states:

The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject.

Officers should not engage in personal conversations with attorneys during the course of an interview.

Additionally, Subsection (b) of Chapter 15.4 provides that:

An adjudicator may terminate an interview, even when all essential information has not been elicited, but when “[a]n attorney insists on responding to questions or coaching the person being interviewed.”

However, 8 CFR §292.5(b) states:

***Right to representation.** Whenever an examination is provided for in this chapter, the person involved shall have the right to be represented by an attorney or representative who shall be permitted to examine or cross-examine such person and witnesses, to introduce evidence, to make objections which shall be stated succinctly and entered on the record, and to submit briefs.*

The regulation permits counsel to play a much broader role in the representation of clients during interviews than that set forth in the AFM. We respectfully request that this issue be studied with a view toward amending the AFM to better conform with the scope of the regulations.

USCIS Response: On April 23, 2011, USCIS Director Alejandro Mayorkas met with representatives from AILA and the American Immigration Council (AIC) to discuss this issue. The Agency respects the attorney-client relationship and asks that attorneys and accredited representatives likewise respect USCIS staff in the context of benefit and other interviews/interactions. Attorneys or accredited representatives may voice objections to questions, point out errors on points of law, and provide a closing statement on behalf of their client. They may not, however, answer questions for their client unless requested to do so by the adjudicator, or impede proper questioning by the adjudicator. Where a private attorney or accredited representative believes that an interview is being conducted improperly or in disregard of the law, he or she may bring their concern to the attention of a supervisor as directed locally. Adjudicators are likewise responsible for reporting through proper supervisory channels behavior by an attorney or accredited representative that they believe is unethical or in violation of the law.

Future guidance will address how ISOs should report instances involving perceived inappropriate conduct by attorneys and/or accredited representatives and also the reverse (i.e., how attorneys and/or accredited representatives should report perceived inappropriate behavior by ISOs).

- b. **Role of the Attorney.** We have received reports that some field offices restrict the involvement of the attorney during the interview process. The USCIS Milwaukee Field Office has stated that it follows AFM §15.8, which explains that the attorney’s role at the interview is limited to advising his or her clients on points of law, and that the attorney may not respond to questions the interviewing officer has asked the applicant. The office has stated that after the interview, the attorney may follow-up with any concerns regarding the interview and interview questions, or may submit additional information in response to a Notice of Intent to Deny. While we understand the attorney may not answer any questions on

behalf of the applicant, there are often times where it is not only appropriate, but helpful to the examiner for an attorney to help clarify a point of confusion, provide prepared documents on a legal issue, or explain a complicated procedural issue in the applicant's immigration history that the applicant might not fully understand. What guidance, if any, in addition to the AFM, has been provided to USCIS examiners regarding the role of the attorney in the interview process?

USCIS Response: USCIS has spent a considerable amount of time training the ISOs on interview techniques. This training is provided at the field offices and at the ISO Basic training and includes information on the role of the attorney or representative in the interview. Also, as discussed at the meeting with AILA, AIC, and USCIS in April 2011, we welcome suggested language from AILA to potentially incorporate into any guidance USCIS creates regarding this topic.

- c. **Attorney Seating.** We have been informed that during interview for immigration benefits, attorneys are sometimes instructed to sit in a corner of the room, behind or otherwise apart from the applicant. Examiners have remarked that this rule is to prevent attorneys from participating in the interview. Such a rule conflicts with the right to representation as provided under 8 CFR §292.5(b). Would Field Operations send clear guidance to the field offices stating that attorneys have a right to attend and represent their clients at interviews for immigration benefits, and should be permitted to sit next to their clients, or make other comparable arrangements if space does not easily permit, that would allow the attorney to properly observe the interview and provide appropriate legal assistance?

USCIS Response: Field Operations provided guidance to its offices regarding seating of attorneys during interviews in May 2010 and again in April 2011.

It is critical that USCIS respect the integrity of the attorney/client relationship. Attorneys and/or accredited representatives should, barring safety or security concerns, be permitted to sit next to their clients during interviews. In terms of safety and security, in directing seating during benefit interviews, adjudicators should ensure that:

- Officers have a full view of everyone in the room,
- No one in the room, other than the officer, is seated in view of a government computer/monitor screen, and
- Egress is not blocked for any of those present in the interview room.

Please understand that some interview rooms are not large enough to accommodate the applicant(s) and attorney all sitting in the same row. In these situations, an attorney may be asked to sit behind his or her client.

Question 5: Post-Interview Follow-up Notices Not Sent to Attorneys

Members have reported instances where USCIS concluded an interview with the G-28 attorney present, and USCIS has later contacted the applicant without notifying the attorney, to request

that the applicant return to USCIS for a second interview, to sign a sworn statement, or to request more evidence. Absent an attorney's written waiver of appearance or withdrawal of representation, what is the protocol for a field office to contact a represented individual without counsel present?

USCIS Response: ISOs should contact the attorney or representative of record; however, on occasion this does not happen. USCIS believes that these are isolated incidents and would welcome examples. We have asked field leadership to remind ISOs that represented applicants should not be contacted without first notifying the attorney and any notices or correspondence should also be sent to the attorney.

Question 6: Adjudications of Form I-751

At the January 2011 Field Operations Directorate Liaison Meeting, AILA asked if, in the wake of a series of reports of harsh treatment of petitioner interviewees under the I-751 hardship and abuse category, USCIS would establish training of officers interviewing these cases similar to that of the VAWA adjudicators at the Vermont Service Center.

While we understand that unprofessional conduct by an adjudicator may also be reported to a supervisor, we believe that an officer who adjudicates cases under this category is in a similar situation to those adjudicating I-360 petitions and should, therefore, have a heightened level of training in the effects of abuse which is afforded to the VAWA adjudicators. Could USCIS designate specific officers with training in that area to adjudicate these petitions?

USCIS Response: It is not always feasible nor is it efficient, particularly in smaller offices, to designate officers for specific types of cases. USCIS is working with the training division to develop a training module focusing on interviewing techniques for victims of abuse or trauma.

Question 7: Defense of Marriage Act Cases

Same-sex marriage is legal in many jurisdictions within the United States, and the Administration recently announced it will no longer defend the constitutionality of section 3 of the Defense of Marriage Act (DOMA) (AILA Doc. No. 11032830).³

- a. After stating that USCIS would hold I-130 same-sex marriage cases in abeyance while awaiting judicial review, USCIS reversed its position and announced that these cases will move forward. What instructions have field offices received, or will they receive, on these cases, and in particular, how will USCIS adjudicate these I-130s in districts where federal courts have struck down DOMA?

USCIS Response: USCIS briefly held cases to await guidance; USCIS's actions regarding DOMA were misconstrued in the media. USCIS stated on March 28, 2011, "USCIS has issued

³ See AILA Doc. No. 11032830, <http://www.aila.org/content/default.aspx?docid=34956>

USCIS Update

Oct. 1, 2009

USCIS Announces Publication of New Notice of Entry of Appearance forms for Attorneys or Accredited Representatives

WASHINGTON — U.S. Citizenship and Immigration Services (USCIS) announced today that a revised Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) and the new Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States (Form G-28I) has been issued.

USCIS will provide a 30-day grace period for the Form G-28, until Oct. 30, so that Forms G-28 currently in the mail will be considered valid when received at the USCIS Lockbox facility or USCIS Service Center. After Oct. 30, any prior versions of the Form G-28 that are received will be considered invalid. All Forms G-28 filed before Oct. 30, will be honored for previously filed cases as long as the Forms G-28 were properly completed by an eligible attorney or accredited representative. The new Form G-28 is not required for receiving updates or interviews unless a new attorney is representing the applicant.

The new Form G-28I is for use by attorneys admitted to practice law who seek to appear before the Department of Homeland Security (DHS) in matters outside of the United States. Acceptance by a DHS entity of a completed Form G-28I does not itself constitute approval by the DHS entity for the attorney to represent the applicant or petitioner in the matter for which Form G-28I was filed. The Form G-28I may not be filed for matters in DHS offices within the United States.

To obtain the new Form G-28 and G-28I, and instructions for completion of the forms, please visit the USCIS forms page at www.uscis.gov/forms.

- USCIS -

**G-28, Notice of Entry of Appearance
as Attorney or Accredited Representative**

Department of Homeland Security

Part 1. Notice of Appearance as Attorney or Accredited Representative

A. This appearance is in regard to immigration matters before:

- USCIS - List the form number(s): _____ CBP - List the specific matter in which appearance is entered: _____
 ICE - List the specific matter in which appearance is entered: _____

B. I hereby enter my appearance as attorney or accredited representative at the request of:

List Petitioner, Applicant, or Respondent. NOTE: Provide the mailing address of Petitioner, Applicant, or Respondent being represented, and not the address of the attorney or accredited representative, except when filed under VAWA.

Principal Petitioner, Applicant, or Respondent			A Number or Receipt Number, if any	<input type="checkbox"/> Petitioner
Name: Last	First	Middle		<input type="checkbox"/> Applicant
Address: Street Number and Street Name Apt. No. City State Zip Code				<input type="checkbox"/> Respondent

Pursuant to the Privacy Act of 1974 and DHS policy, I hereby consent to the disclosure to the named Attorney or Accredited Representative of any record pertaining to me that appears in any system of records of USCIS, USCBP, or USICE.

Signature of Petitioner, Applicant, or Respondent _____ Date _____

Part 2. Information about Attorney or Accredited Representative (Check applicable items(s) below)

- A. I am an attorney and a member in good standing of the bar of the highest court(s) of the following State(s), possession(s), territory(ies), commonwealth(s), or the District of Columbia:
 I am not or am subject to any order of any court or administrative agency disbaring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law (If you are subject to any order(s), explain fully on reverse side).
- B. I am an accredited representative of the following qualified non-profit religious, charitable, social service, or similar organization established in the United States, so recognized by the Department of Justice, Board of Immigration Appeals pursuant to 8 CFR 1292.2. Provide name of organization and expiration date of accreditation: _____
- C. I am associated with _____
 The attorney or accredited representative of record previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative is at his or her request (If you check this item, also complete item A or B above in Part 2, whichever is appropriate).

Part 3. Name and Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before the Department of Homeland Security. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

Name of Attorney or Accredited Representative	Attorney Bar Number(s), if any
Signature of Attorney or Accredited Representative	Date
Complete Address of Attorney or Organization of Accredited Representative (Street Number and Street Name, Suite No., City, State, Zip Code)	
Phone Number (Include area code)	Fax Number, if any (Include area code)
E-Mail Address, if any	

G-28, Notice of Entry of Appearance as Attorney or Accredited Representative

Department of Homeland Security

Instructions

What Is the Purpose of This Form?

An attorney or accredited representative appearing before the Department of Homeland Security (DHS) must file Form G-28 in each case. Form G-28 must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation for the appearance to be recognized by U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). Under 8 CFR 103.2(a)(3), a beneficiary of a petition is not a recognized party in a proceeding before USCIS. Form G-28 will be recognized by USCIS, CBP, or ICE until the conclusion of the matter for which it was entered. This does not change the requirement that a new Form G-28 must be filed with the Administrative Appeals Office when filing an appeal to that office on Form I-290B, Notice of Appeal or Motion.

Who May Use This Form?

Appearances for Immigration Matters

This form is used only by attorneys and accredited representatives (as defined in 8 CFR 1.1(f) and 292.1(a)(4)).

Attorneys admitted to the practice of law in countries other than the United States must use Form G-28I and may only represent individuals in matters filed in DHS offices outside the geographical confines of the United States.

An attorney or accredited representative who seeks to withdraw his or her appearance in a proceeding before DHS must file a written request with the DHS office with jurisdiction over the pending matter. An attorney or accredited representative who seeks to be recognized by DHS as the new representative for an applicant, petitioner, or respondent must file a properly completed Form G-28 with the DHS office with jurisdiction over the pending matter. An attorney or accredited representative who is appearing for a limited purpose at the request of the attorney or accredited representative of record must file a properly completed Form G-28 as noted on the form.

When a person acts in a representative capacity, his or her personal appearance or signature shall constitute a representation under the provisions of 8 CFR 103.2(a)(3) and 292.1(a)(1) or 292.1(a)(4) that he or she is authorized and qualified to represent the individual. Further proof of authority to act in a representative capacity may be required.

General Instructions

Part 1. Notice of Appearance as Attorney or Accredited Representative

- A. Check one block to indicate the DHS agency where the matter is filed. If it is USCIS, list the form number(s) filed with Form G-28. If it is CBP or ICE, list the specific matter in which the appearance is entered.
- B. Fill in all information. The mailing address of the applicant, petitioner, or respondent is required in this part of the form, except when filed under the Violence Against Women Act (VAWA). The applicant, petitioner, or respondent must sign the form, preferably in dark blue or black ink.

Part 2. Information about Attorney or Accredited Representative

- A. Attorneys admitted to practice in the United States, as defined in 8 CFR 1.1(f):

Check the box and fill in required information regarding the State bar(s) of admission. If you are subject to any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting you in the practice of law, you must disclose this information on Form G-28. Attorneys are required to notify DHS of convictions or discipline pursuant to 8 CFR 292.3.

B. Accredited representatives of recognized organizations, as defined in 8 CFR 292.1(a)(4):

Check the box and fill in the name of the organization recognized by the Board of Immigration Appeals (BIA) under 8 CFR 292.2 and provide the expiration date of your accreditation.

C. Attorneys or accredited representatives associated with the attorney or accredited representative with Form G-28 previously filed in this matter:

Check the box and fill in the name of the attorney or accredited representative who has previously filed Form G-28 in this matter. A new Form G-28 must be filed by each attorney associated with that attorney or accredited representative.

You must also check Box A or B and provide the required information.

Part 3. Name and Signature of Attorney or Accredited Representative

Fill in all information and sign the form, preferably in dark blue or black ink.



Individuals appearing as attorneys or accredited representatives are subject to the rules of Professional Conduct for Practitioners found in 8 CFR 292.3.



This form may not be used to request records under the Freedom of Information Act or the Privacy Act 5 USC 552 & 552a. The procedures for requesting such records are contained in 6 CFR 5.



An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 20 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Products Division, 111 Massachusetts Avenue, NW, 3rd Floor, Suite 3008, Washington, DC 20529-2210, OMB No. 1615-0105. Do not mail your application to this address.

SNA-AILA Liaison Meeting
March 21, 2013
Liaison Questions

1. Dedicated E-mail accounts. Can you provide an update on the response time to inquiries submitted to the dedicated e-mail inboxes (SNA.Adjudications@uscis.dhs.gov and SNA.Citizenship@uscis.dhs.gov)? Response time will vary on each case depending on how long it takes the responder to conduct a file review and/or talk to the officer(s) involved in the case. Other factors such as holidays and leave may play a part in how quickly a response is returned. In all cases, responses are returned as quickly as possible.

2. SAVE Verification Program. It is our understanding that the Texas Department of Public Safety utilizes a database to verify a driver's license applicant's legal presence which is shared with DHS. If an applicant is not found in the system, he or she is referred to USCIS for verification. Can you provide us with an explanation of the District Office involvement in the SAVE program and what to do to resolve verification issues for applicants who have legal presence but are not verified in the system? The involvement of the District or Field Office in the SAVE program is minimal. When a discrepancy is noted and brought to the attention of the office (normally via an INFOPASS appointment), steps are taken (if within jurisdiction and ability to address by the field office) to address the electronic database to reflect the correct status so that it may be verified in the SAVE program.

3. Ombudsman Office Communications. If a case inquiry is filed with the Ombudsman, and the case involves the SNA, does the San Antonio office communicate with the Ombudsman about the case? The SNA Field Office corresponds directly with the Ombudsman on any inquiries it receives from that office.

4. Client Interview without Attorney. It has been reported that USCIS Officers are interrogating clients via telephone or in person without the knowledge or permission of the attorney of record when there is a G-28 on file. No opportunity to waive the presence of the attorney is provided to the client. What is the policy of the SNA in that regard? The office does not permit officers interviewing applicants with attorney representation outside the presence of their attorneys, which includes phone calls. It should not be happening. If this has occurred, please let this office know so that we may address this matter directly with the officer.

5. Stand Alone I-130 Petitions. Numerous interviews have been recently scheduled for stand-alone I-130 petitions. Is the District adjudicating all I-130 petitions filed from individuals living in the District? Can you provide an update? What is the estimated timeframe for adjudication? As a result of shifting workloads at the national service centers and the National Benefits Center, I-130's that normally would have been adjudicated at the service center or benefit center have been relocated to be adjudicated at the field office. This office received a substantial amount of I-130's and has been adjudicating these petitions with our existing staff of officers. We elected to set all to interview as soon as possible within 60 days of receipt of files rather than assign an officer or officers to determine which I-130's required an interview and which were "interview-waived." It is our belief that this will ensure the most timely processing. For those reasons, you may expect an interview on all I-130's assigned to the SNA field office until further notice.

6. Is the SNA scheduling interviews for most Immediate Relative I-130 petitions? Can you provide us with guidance regarding the types of cases that can expect an interview? Please see response above.

7. On the Local Office Approval Notices the letter states that an I-485 must be filed within 30 days of the I-130 approval notice. This gives the impression, especially to pro se applicants, that the approval will be lost if the adjustment case is not filed within such timeframe. Can you provide us with an explanation to such language? The I-171, *Notice of Approval of Relative Immigrant Visa Petition*, that this office used is outdated.



May 23, 2012

PM-602-0055.1

Policy Memorandum

SUBJECT: Representation and Appearances and Interview Techniques; Revisions to
Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Purpose

This policy memorandum (PM) provides guidance regarding representation and appearances and interview techniques in certain application and petition proceedings before USCIS.

Scope

This PM applies to the adjudication processes of the Field Operations and Service Center Operations Directorates and the International Operations Division of the Refugee, Asylum, and International Operations Directorate. This PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, parts 1(a), 1(b)(2), 2-4, and adds new Appendix 12-1. This PM does not apply to the Asylum Division or the Refugee Affairs Division of the Refugee, Asylum, and International Operations Directorate or site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

Authority

Section 292 of the Immigration & Nationality Act
8 CFR 1; 103; 292

Introduction

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the integrity of the immigration system. This goal is furthered when USCIS adjudicators recognize the range of individuals who may represent applicants and petitioners, respect the relationship between client and representative, and conduct interviews professionally. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and other representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews. This policy memorandum provides guidance for appearances and interview techniques in application and petition proceedings before USCIS; however, it does not apply to asylum or refugee processing procedures or site visits conducted by the Fraud Detection and National Security Directorate, for which specific guidance exists. In the refugee processing context, among other differences in

interviewing procedures, refugee applicants do not have the right to representation as such applicants are deemed to be applicants for admission.¹

Background

An applicant or petitioner for immigration benefits may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.²

Prior to 1994, the regulations governing the adjudication of applications and petitions (8 CFR 103.2) did not include provisions specifically addressing the representation of applicants and petitioners during such proceedings. In 1991, the Immigration and Naturalization Service (“Service”) proposed amending the regulations at 8 CFR 103.2 to provide that an applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.³ The Service proposed limiting the categories of eligible representatives in application and petition proceedings from the “broad range” of representatives listed in 8 CFR 292.1. Moreover, in order to properly document representation, the Service proposed revising 8 CFR 292.4(a)(4) to require that an applicant or petitioner sign the notice of appearance in order to authorize representation before the Service.⁴ In adopting these changes in a final rule in 1994, the Service determined that the reasons cited in the supplemental information in the proposed rule supported requiring the signature of the applicant or petitioner on the G-28, and that this was also a way to help combat the unauthorized practice of law by ineligible individuals.⁵ This final rule included the language in 8 CFR 103.2(a)(3) that exists today⁶ and added to 8 CFR 292.4 the requirement that the notice of appearance form be signed by the applicant or petitioner in order to authorize representation before the Service.⁷

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in

¹ Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Furthermore, the Department of State (DOS) is responsible for scheduling refugee applicants for an interview with USCIS, and therefore, interview notifications and rescheduling policies for refugee applicants are governed by DOS procedures.

² 8 CFR 103.2(a)(3) (2011)

³ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 56 Fed. Reg. 6120161202 (proposed Dec. 2, 1991) (to be codified at 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁴ Id.

⁵ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 59 Fed. Reg. 1455 (Jan. 11, 1994) (amending 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁶ Id. at 1460.

⁷ Id. at 1466.

8 CFR 103.2(a)(3).⁸ The change reinforced the policy that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not file a G-28 in application and petition proceedings before USCIS, and notification regulations do not apply to them.

Policy

Effective immediately, USCIS Officers in the Field Operations and Service Center Operations Directorates and the International Operations Division of the Refugee, Asylum, and International Operations Directorate will follow the instructions contained in Chapter 12 and 15 of the *AFM* as amended by this PM.

⁸ Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances, 75 Fed. Reg. 5225, 5227 (Interim rule with request for comments Feb. 2, 2010) (amending 8 CFR 1 and 292)

Implementation

The *AFM* is revised as follows.

1. Revise the Table of Contents for Chapter 12 to read:

Chapter 12 Representation and Appearances

- 12.1 Representation before USCIS
- 12.2 Appearances before USCIS
- 12.3 Proper Service of Documents and Notices
- 12.4 Interviews
- 12.5 Rules of Professional Conduct for Practitioners
- 12.6 The Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process¹

References

Section 292 of the INA
8 CFR 103 and 292

2. Revise Chapter 12 to read:

Chapter 12: Representation and Appearances

Chapter 12.1 Representation before USCIS

(a) General

An applicant or petitioner may be represented in matters filed with USCIS.² Whenever an examination is provided for under the regulations, the person involved has the right to be represented by an attorney or representative before USCIS.³

¹ The Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process; Revisions to the *Adjudicator's Field Manual*, New Chapter 12.6, *AFM* Update AD 11-34. Interim Memo for Comment, PM 602-0039 (June 7, 2011).

² 8 CFR 103.2(a)(3) (2011)

³ 8 CFR 292.5(b) (2011). Refugee applicants do not have the right to representation, as such applicants are deemed to be applicants for admission. Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Accordingly, this guidance does not apply to the Refugee Affairs Division or the Asylum Division of the Refugee, Asylum, and International Operations Directorate, which are governed by other established procedures, guidance, and lesson plans. This guidance does not apply to site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

Title 8 CFR 292.1 lists the categories of individuals who may represent a “person entitled to representation” before DHS, “subject to the limitations in 8 CFR 103.2(a)(3).” An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.⁴ Only these categories of representatives may file a notice of appearance on Form G-28 or G-28I in an application or petition proceeding before USCIS.

Law students and law graduates may engage in practice⁵ and preparation⁶ under the requirements described in the regulations⁷ but may not be the official representative of record on Form G-28. USCIS provides notices in writing to the supervising attorney or accredited representative identified as the representative on the Form G-28. Law students and law graduates may attach a statement with the information required in 8 CFR 292.1(a)(2) to the Form G-28 filed by their supervising attorney or accredited representative, or in person at a USCIS office. A law student or law graduate who has filed the required statement in a case may communicate with USCIS in writing. Substantive filings require the signature of the supervising attorney or accredited representative. See section 12.1(e) for additional information.

Reputable individuals and accredited officials may assist a person entitled to representation before USCIS. Unless otherwise licensed to do so, reputable individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office. These individuals may not file a Form G-28. They must provide a written declaration to the USCIS official before whom they seek to appear, and may participate in the interview process only if that official permits their appearance. The original of this written declaration is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding. An accredited official of the government to which an applicant or petitioner owes allegiance may appear at an interview solely in his or her official capacity and only with the applicant’s or petitioner’s consent.⁸ See section 12.1(f) for additional information.

USCIS does not provide notices in writing to reputable individuals or accredited officials.⁹

(b) Attorneys in the United States

An “**attorney**” is any person who is eligible to practice law in and is a member in good

⁴ 8 CFR 103.2(a)(3) (2011)

⁵ 8 CFR 1.2

⁶ 8 CFR 1.2

⁷ 8 CFR 292.1(a)(2) (2011)

⁸ 8 CFR 292.1(a)(5) (2011)

⁹ Id.

standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.¹⁰

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹¹

(c) Attorneys outside the United States

An "**attorney outside the United States**" is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹²

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States" (Form G-28I) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹³

(d) Accredited Representatives

An "**accredited representative**" is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) and has been accredited by the BIA to represent others in immigration proceedings before the immigration courts and the BIA of the Executive Office for Immigration Review and/or DHS.¹⁴

¹⁰ 8 CFR 1.2 (2011)

¹¹ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹² 8 CFR 292.1(a)(6) (2011)

¹³ 8 CFR 292.4(a) (2011); Instructions for Form G-28I (04/22/09)

¹⁴ 8 CFR 292.1(a)(4) & 8 CFR 292.2

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and/or DHS at www.justice.gov/eoir/legalrepresentation.htm. Accredited representatives who are listed as “partially accredited” are authorized to practice only before DHS.
- Accredited representatives must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁵

(e) Law Students and Law Graduates not yet admitted to the bar

Law students who are enrolled in an accredited U.S. law school and **law graduates** of an accredited U.S. law school who are not yet admitted to the bar may engage in practice¹⁶ and preparation,¹⁷ constituting representation¹⁸ under supervision as required in 8 CFR 292.1(a)(2).

- The supervising attorney or accredited representative of a law student or law graduate must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in application and petition proceedings before USCIS.
- A **law student** enrolled in an accredited U.S. law school must file a statement that he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization and is appearing without direct or indirect remuneration from the individual he or she represents.¹⁹
- A **law school graduate** of an accredited U.S. law school who is not yet admitted to the bar must file a statement that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.²⁰
- The statement from the law student or law graduate may be attached to the Form G-28 filed by the supervising attorney or accredited representative, or submitted in person at a USCIS office. (See Sample Statement in Appendix 12-1.)
- Law students and law graduates must seek permission from the DHS official before whom they seek to appear with an applicant or petitioner in person at a USCIS office.²¹ If the DHS official does not permit a law student or law graduate to appear, the reason for this decision shall be provided to the law student or law graduate in writing.

¹⁵ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹⁶ 8 CFR 1.2 (2011)

¹⁷ 8 CFR 1.2 (2011)

¹⁸ 8 CFR 1.2 (2011)

¹⁹ 8 CFR 292.1(a)(2) (2011)

²⁰ 8 CFR 292.1(a)(2) (2011)

²¹ 8 CFR 292.1(a)(2)(iv) (2011)

- The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate.²² Law students and law graduates who are accompanied by the supervising attorney or accredited representative shall be permitted to appear at the interview or other examination.
- If the USCIS officer observes an action by a law student or law graduate that provides good cause for the officer to believe that the representation by the law student or law graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative if they are not present.
- All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the Form G-28 (not the law student or law graduate). Law students and law graduates who have submitted a statement with the information required in 8 CFR 292.1(a)(2) may communicate in writing with USCIS with regard to procedural issues, such as rescheduling of interviews or biometrics appointments. Substantive filings, such as the filing of briefs or submission of evidence, require the signature of the supervising attorney or accredited representative.

(f) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must not receive payment directly or indirectly for his or her representation.²³ A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²⁴

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12-1.)
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in

²² 8 CFR 292.1(a)(2) (2011)

²³ 8 CFR 292.1(a)(3) (2011)

²⁴ 8 CFR 292.1(a)(3)(iii) (2011)

immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²⁵

- USCIS does not accept Forms G-28 filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²⁶
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in-person in that case.
- USCIS does not send notices or other written communications to reputable individuals.²⁷

(g) Accredited Officials

An **accredited official** of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant's or petitioner's consent.²⁸

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See Sample Statement in Appendix 12-1.)
- USCIS does not send notices or other written communications to accredited officials.²⁹

12.2 Appearances before USCIS

(A) Filing a Notice of Entry of Appearance as Attorney or Accredited Representative

Attorneys, attorneys outside the United States, and accredited representatives must establish their eligibility to appear on the form designated by DHS in each case.³⁰

Notices of entry appearance may be filed at any stage in the proceedings.

- Attorneys and accredited representatives must submit a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.
- Attorneys outside the United States must submit a Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States.
- The Form G-28 and Form G-28I must be properly completed and signed by the applicant or petitioner in order for the appearance to be recognized by USCIS.

²⁵ 8 CFR 292.1(a)(3)(iv) (2011)

²⁶ 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

²⁷ 8 CFR 103.2(a)(3) and 292.5(a) (2011).

²⁸ 8 CFR 292.1(a)(5) (2011)

²⁹ 8 CFR 103.2(a)(3) and 292.5(a) (2011)

³⁰ 8 CFR 292.4(a) (2011)

Once the Form G-28 or Form G-28I is accepted, the appearance will be recognized until the conclusion of the matter for which it was entered.

- When filing an appeal with the Administrative Appeals Office on Form I-290B, the attorney or accredited representative must file a new Form G-28.
- Other representatives (law students, law graduates, reputable individuals and accredited officials) may not submit Form G-28 or Form G-28I.
- See section 12.1(e) for additional information on law students and law graduates.

USCIS officers may verify an attorney's or accredited representative's eligibility and require further proof of authority to act in a representative capacity. Officers should seek more information at the DHS Disciplinary Counsel website and at www.justice.gov/eoir/legalrepresentation.htm. Officers should also review the list of disciplined practitioners at http://www.justice.gov/eoir/discipline.htm, which includes attorneys and accredited representatives who are currently disbarred or suspended from practice before DHS and EOIR. USCIS officers should be aware of individuals who have falsely claimed to be attorneys or accredited representatives when they are not and individuals who have been the subject of federal, state, or local court action to stop their unauthorized practice of law or theft of fees for legal services they may not lawfully provide. USCIS officers should not communicate with these individuals, even if they submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in a case.

(b) Substitution or Withdrawal of Representation

It is not uncommon for applicants or petitioners to wish to change representatives or elect to forgo representation during the course of a proceeding. Notification to USCIS of the substitution or withdrawal of a representative may occur in a written notice of withdrawal by the representative of record or upon the filing of a properly completed G-28 or G-28I by the new representative.³¹ Written notifications are to be filed in the record of proceedings. An applicant or petitioner may elect to proceed without his or her representative, but must submit a written statement to the USCIS official that he or she has voluntarily chosen to proceed without representation.

12.3 Proper Service of Documents and Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative.³² Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the

³¹ 8 CFR 292.4 (2011)

³² 8 CFR 292.5 (2011).

benefit notice will also be sent to the applicant or petitioner. **EXCEPTION:** Secure identification documents such as Form I-551, Permanent Resident Card, Form I-766, Employment Authorization Document, Form I-327 Re-entry Permit, and Form I-571 Refugee Travel Document can only be sent to the applicant.³³

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented.³⁴ The receipt notice and any other notices will be sent only to the applicant or petitioner.

12.4 Interviews

When an examination is to be conducted in immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or other representatives of both the petitioner and beneficiary will be permitted to appear.³⁵ In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. An attorney or representative may not respond to questions the USCIS officer directs to the applicant, petitioner, or witness, except to ask the USCIS officer to clarify the question asked. An attorney or representative may ask the applicant or petitioner additional questions at the conclusion of the interview by the officer.

An attorney or other representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview.³⁶ If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings.³⁷

³³ 8 CFR 103.2(b)(19)

³⁴ 8 CFR 103.2(a)(3) (2011)

³⁵ 8 CFR 103.2(a)(3) (2011)

³⁶ Exceptions may be made if the interests of the Government will not be prejudiced.

³⁷ This language does not apply to examinations governed by 8 CFR 312.4.

See Chapter 15 for additional guidance on Interview Techniques.

12.5 Rules of Professional Conduct for Practitioners

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies.³⁸ Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the Disciplinary Counsel website for more information on the rules of professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative. Attorneys and other representatives have a duty to represent their clients zealously. They must, however, do so within the bounds of the law and in accordance with the Rules of Professional Conduct for Practitioners.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes disruptive, abusive, or otherwise interferes with the orderly process of the interview, the officer should seek assistance from a supervisor. The attorney or representative may object to the appropriateness of a line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to DHS Disciplinary Counsel through appropriate supervisory channels.

☞ 3. Add Appendix 12-1 the Table of Contents for Appendices.

Appendix 12-1 Sample Statements and Declarations

³⁸ 8 CFR 292.3 (2011)

4. Appendix 12-1 is added as follows:

Appendix 12-1 Sample Statements and Declarations

**SAMPLE STATEMENT OF LAW STUDENT REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a law student enrolled in Anystate Law School, an accredited U.S. law school.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am participating under the direct supervision of Sam Samuels, a faculty member, Susan Williams, a licensed attorney, or Joe Johnson, a BIA accredited representative in a legal aid program or clinic conducted by a law school or non-profit organization.

I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF A LAW GRADUATE REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a graduate of Anystate Law School, an accredited U.S. law school, who is not yet admitted to the bar.

I received my law degree on June 1, 2011 and will take the bar examination on February 21, 2012; or, sat for the bar examination on July 24, 2011 and have not yet received my results.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am appearing under the supervision of Susan Williams, a licensed attorney, or Joe Johnson, an accredited representative. I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE DECLARATION OF A REPUTABLE INDIVIDUAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a reputable individual of good moral character, as defined in 8 CFR 292.1(3).

I am appearing on an individual case basis at the request of Jane Doe, a person entitled to representation. I am appearing without direct or indirect remuneration. I have a pre-existing relationship with Jane Doe as a relative, neighbor, clergyman, business associate, and/or personal friend.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I declare, under penalty of perjury under the laws of the United States of America, that this statement is all true and correct.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF AN ACCREDITED OFFICIAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as an accredited official of the Nowhereland government to which Jane Doe owes allegiance.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I am appearing with the consent of Jane Doe, a person entitled to representation.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

5. Revise Chapter 15.1(a) to read:

(a) General.

In accordance with **8 CFR 103.2(b)(9)**, an applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an application or petition may be required to appear for an interview.

This chapter discusses policies and procedures to be followed in conducting interviews that involve immigration benefits. The basic principles for conducting interviews are outlined and defined below. The policies set forth below apply to all officers, and all personnel interviewing applicants for immigration benefits should be familiar with the contents of this chapter. No adjudicator should be assigned to conduct interviews until his/her first line supervisor is satisfied that the officer is fully competent to do so.

The purpose of an interview is to obtain accurate and complete information from the individual and to make a determination regarding the individual's credibility. The fundamental objective is to obtain the facts necessary to make a correct decision. Therefore, the length of the interview may vary for many reasons including, but not limited to the following:

- The amount and complexity of material being covered;
- Any fraud indicators that may be present;
- The number of individuals interviewed in connection with the case;
- The degree to which all required documents have been submitted;
- The need for an interpreter or the need to tailor questioning to an individual's background and experience; and
- The degree and ease with which IT, recording and other equipment is used.

Interviews conducted by adjudication officers are non-adversarial in nature, as opposed to a court proceeding involving two attorneys where each advocates a particular position.

Developing the skills necessary to conduct such an interview takes time and practice, there are a number of reference guides that can be of assistance. Please see **Appendix 15-2**.

6. Revise Chapter 15.1(b)(2) to read:

15.1 Interview Policies

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews.

(2) Evaluating Requests for the Rescheduling of Interviews (See 8 CFR 103.2(b)(9))

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in *AFM Chapter 15.1(d)(2)*.

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative, the USCIS official should obtain a written statement from the individual. Written statements are to be filed in the record of proceedings. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The officer

should still consider statements and submissions by the individual's attorney or other representative in his or her absence.

☞ 7. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants, as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and the person being interviewed, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless this cannot be accommodated due to the physical layout of the interview space. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area should be reasonably near the interview area to minimize lost time between interviews.

8. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both men and women should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being interviewed.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the person being interviewed becomes abusive or if derogatory information is developed. If necessary, contact a supervisor. See section 15.4(e) for guidance on Concluding or Terminating an Interview.
- Be fair, courteous, and patient without diminishing a full and complete development of the material facts, whether they are favorable or adverse to the person being interviewed or any other person.
- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.

- Ensure that your demeanor does not imply or reflect prejudice. Interviews should proceed in a fair and impartial manner so as to avoid complaints regarding the conduct of USCIS officers.

☞ 9. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the person(s) being interviewed) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / person being interviewed(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review

of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case.

(c) At the Interview

- Greet the person being interviewed in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) being interviewed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such a statement is not taken, the memorandum record of the interview should show that the person being interviewed was under oath or affirmation.
- An applicant or his or her attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- The person(s) being interviewed should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. USCIS officers are reminded that the purpose of the interview is to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government, in order to properly adjudicate the application or petition.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The person(s) being interviewed(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The person being interviewed is unable to communicate without an interpreter, and one is not available.
- An interpreter clearly has difficulty translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The person being interviewed refuses to respond to questions essential to the successful completion of the interview.
- The conduct of the attorney or other representative has exceeded the bounds of zealous representation and interferes with the ability of the officer to conduct the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the person being interviewed(s) or the attorney or other representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or the attorney or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An applicant or petitioner, or attorney or accredited representative with a properly executed "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28), may request a copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer, by filing a Freedom of Information/Privacy Act Request (Form G-639).³⁹

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

³⁹ 8 CFR 292.4(b) (2011)

10. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 5/23/2012	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(a)• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12 , Private Attorneys and Other Representatives; new Appendix 12-1 , Sample Affidavits; and revisions to Chapter 15.1(a) , Chapter 15.1(b)(2) , Chapter 15.2 , Chapter 15.3 , and Chapter 15.4 .
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

U.S. Department of Homeland Security
Citizenship and Immigration Services

Request For Applicant for Register Permanent Residence or Adjust Status

Please come to: Citizenship and Immigration Services 4121 Southpoint Boulevard Jacksonville, Florida 32216	Appointment Date: At:
<u>NAME AND ADDRESS</u>	Alien Registration Number: A 3/28/13

You are hereby notified to appear for an interview appointment as scheduled above, for the completion of your Application to Register for Permanent Residence or Adjust Status (Form I-485) and any supporting applications or petitions. **Failure to appear for this interview and/or failure to bring the below listed items will result in the denial of your application (8 CFR 103.2(b)(13)).**

Who should come with you:

➤ **If your eligibility is based on your marriage, your husband or wife must come with you to the interview.**

➤ **If you do not speak English fluently, you should bring an interpreter.**

➤ **Your attorney or authorized representative may come with you to the interview.**

➤ **If your eligibility is based on a parent/child relationship and the child is a minor, the petitioning parent and the child must appear for the interview.**

***NOTE:** Every adult (over 18 years of age) who comes to the interview must bring Government-issued photo identification, such as a driver's license or ID card, in order to enter the building and to verify his/her identity at the time of the interview. You do not need to bring your children unless otherwise instructed. Please be on time, but do not arrive more than 45 minutes early. We may record or videotape your interview.

YOU MUST BRING THE FOLLOWING ITEMS WITH YOU: (Please use as a checklist to prepare for your interview)

- This Interview Notice and your Government issued photo identification.
- A completed medical examination (Form I-693) and vaccination supplement in a sealed envelope (unless already submitted).
- A completed Affidavit(s) of Support (Form I-864) with all required evidence, including the following, for each of your sponsors (unless already submitted):
 - Federal Income Tax returns and W-2's, or certified IRS printouts for the past 3 years;
 - Letters from each current employer, verifying current rate of pay and average weekly hours, and pay stubs for the past 2 months;
 - Evidence of your sponsor's and/co-sponsor's United States Citizenship or Lawful Permanent Residence Status.
- All documentation establishing your eligibility for Lawful Permanent Resident status.
- All immigration-related documentation ever issued to you, including any Employment Authorization Document (EAD) and any Authorization for Advance Parole (I-512).
- All travel documents used to enter the United States, including Passports, Advance Parole documents (I-512) and I-94s Arrival/Departure Document).
- Your Birth Certificate.
- Your petitioner's Birth Certificate and your petitioner's evidence of United States Citizenship or Lawful Permanent Resident status.
- If you have children, bring a Birth Certificate of each of your children.
- If your eligibility is based on your marriage, in addition to your spouse coming to the interview with you, bring:
 - A certified copy of your Marriage Document issued by the appropriate civil authority.
 - Evidence of termination for all prior marriages, (divorce decrees, death certificates, etc).
 - Your spouse's Birth Certificate and your spouse's evidence of United States Citizenship or Lawful Permanent Resident status;
 - Birth Certificates for all children of this marriage, and custody papers for your children and for your spouse's children not living with you.
- Supporting evidence of your relationship, such as copies of any documentation regarding joint assets or liabilities you and your spouse may have together. This may include: tax returns, bank statements, insurance documents (car, life, health), property documents (car, house, etc.), rental agreements, utility bills, credit cards, contracts, leases, photos, correspondence and/or any other documents you feel may substantiate your relationship.
- Original and copy of each supporting document that you submitted with your application. Otherwise, we may keep your originals for our records.
- If you have ever been arrested bring the related Police Report and the original or certified Final Court Disposition for each arrest, even if the charges have been dismissed or expunged. If no courts record is available, bring a letter from the court with jurisdiction indicating this.
- A certified English translation for each foreign language document. The translator must certify that s/he is fluent in both languages, and that the translation in its entirety is complete and accurate.

YOU MUST APPEAR FOR THIS INTERVIEW: If any emergency, such as your own illness or a close relative's hospitalization, prevents you from appearing, call the U.S. Citizenship and Immigration Services (USCIS) National Customer Service Center at 1-800-375-5283 as soon as possible. Please be advised that rescheduling will delay processing of application/petition, and may require some steps to be repeated. It may also affect your eligibility for other immigration benefits while this application is pending.

Sincerely,

cc:

Katherine L. Baranowski,
Field Office Director

Please come to: Citizenship and Immigration Services 4121 Southpoint Boulevard Jacksonville, Florida 32216	Appointment Date: At:
NAME AND ADDRESS	Alien Registration Number: A 3/28/13

You are hereby notified to appear for an interview appointment as scheduled above, for the completion of your Petition for Alien relative (Form I-130) and any supporting applications or petitions. **Failure to appear for this interview and/or failure to bring the below listed items will result in the denial of your application (8 CFR 103.2(b)(13)).**

Who should come with you?

- > **If your eligibility is based on your marriage, your husband or wife must come with you to the interview.**
 - > **If you do not speak English fluently, you should bring an Interpreter.**
 - > **Your attorney or authorized representative may come with you to the interview.**
 - > **If your eligibility is based on a parent/child relationship and the child is a minor, the petitioning parent and the child must appear for the interview.**
- *NOTE: Every adult (over 18 years of age) who comes to the interview must bring Government-issued photo identification, such as a driver's license or ID card, in order to enter the building and to verify his/her identity at the time of the interview. You do not need to bring your children unless otherwise instructed. Please be on time, but do not arrive more than 45 minutes early. We may record or videotape your interview.

YOU MUST BRING THE FOLLOWING ITEMS WITH YOU: (Please use as a checklist to prepare for your interview)

- > This Interview Notice and your Government issued photo identification.
- > All travel documents used to enter the United States, including Passports, Advance Parole documents (I-512) and I-94s Arrival/Departure Document).
- > A certified English translation for each foreign language document. The translator must certify that s/he is fluent in both languages, and that the translation in its entirety is complete and accurate.
- > A certified English translation for each foreign language document. The translator must certify that s/he is fluent in both languages, and that the translation in its entirety is complete and accurate.
- > Please bring joint documents (i.e. rental agreements, mortgages, bills, et. al)

YOU MUST APPEAR FOR THIS INTERVIEW- If any emergency, such as your own illness or a close relative's hospitalization, prevents you from appearing, call the U.S. Citizenship and Immigration Services (USCIS) National Customer Service Center at 1-800-375-5283 as soon as possible. Please be advised that rescheduling will delay processing of application/petition, and may require some steps to be repeated. It may also affect your eligibility for other immigration benefits while this application is pending.

Sincerely,

Katherine L. Baranowski,
Field Office Director

CC:

U.S. Department of Homeland Security
Citizenship and Immigration Services

Petition to Remove the Conditions of Residence

Please come to: Citizenship and Immigration Services 4121 Southpoint Boulevard Jacksonville, Florida 32216	Appointment Date: At:
<u>NAME AND ADDRESS</u>	Alien Registration Number: A 3/28/2013

You are hereby notified to appear for the interview appointment, as scheduled above, for the completion of your Petition to Remove the Conditions of Residence (Form I-751). **Failure to appear for this interview and/or failure to bring the below listed items will result in the denial of your application and the termination of your permanent resident status (8 CFR 103.2(b) (13)).**

Who should come with you?

- **If your eligibility is based on your marriage, your husband or wife must come with you to the interview.**
- **If you do not speak English fluently, you should bring an interpreter.**
- Your attorney or authorized representative may come with you to the interview.
- If your eligibility is based on a parent/child relationship and the child is a minor, the petitioning parent and the child must appear for the interview.

***NOTE:** Every adult (over 18 years of age) who comes to the interview must bring Government-issued photo identification, such as a driver's license or ID card, in order to enter the building and to verify his/her identity at the time of the interview. You do not need to bring your children unless otherwise instructed. Please be on time, but do not arrive more than 45 minutes early. We may record or videotape your interview.

YOU MUST BRING THE FOLLOWING ITEMS WITH YOU: (Please use as a checklist to prepare for your interview)

- 1) This Interview Notice and your Government issued photo identification.
- 2) Joint state (if applicable) and federal tax returns for the previous two years;
- 3) Joint accounts/bills;
- 4) Insurance policies (car/boat/life/health/etc);
- 5) Evidence of joint loan applications;
- 6) Evidence of joint purchases;
- 7) Deeds/leases/rental agreements;
- 8) Military: Champus/Deers application, BAQ forms for housing, DD Form 1172 for Dependent I.D. cards;
- 9) Any other documents to show marital relationship;
- 10) Submit any divorce decrees/petitions for divorce (if claiming abuse by the US citizen spouse, please submit proof, i.e. police reports/doctor or hospital reports);
- If you have ever been arrested bring the related Police Report and the original or certified Final Court Disposition for each arrest, even if the charges have been dismissed or expunged. If no court record is available, bring a letter from the court with jurisdiction indicating the unavailability of the record.
- A certified English translation for each foreign language document. The translator must certify that he/she is fluent in both languages and that the translation is complete and accurate in its entirety.

YOU MUST APPEAR FOR THIS INTERVIEW- If any emergency, such as your own illness or a close relative's hospitalization, prevents you from appearing, call the U.S. Citizenship and Immigration Services (USCIS) National Customer Service Center at 1-800-375-5283 as soon as possible. Please be advised that rescheduling will delay processing of application/petition, and may require some steps to be repeated. It may also affect your eligibility for other immigration benefits while this application is pending.

Sincerely,

cc:

Katherine L. Baranowski,
Field Office Director

Attorneys at the Interview

Documentation,
Expectations, and Demeanor

The Interview

An Overview

- The purpose of the interview is simply to gather information regarding eligibility.
- The interview is non-adversarial.
- Customer Service is a very important concern.
- At it's most basic, this means that *anyone* you bring into your office is entitled to respectful treatment.



Eliciting Information

- We should never lose sight of the underlying eligibility issues
- We should not lose control of the interview
- A relaxed, respectful environment is generally conducive to freer discussion.



Non-Adversarial

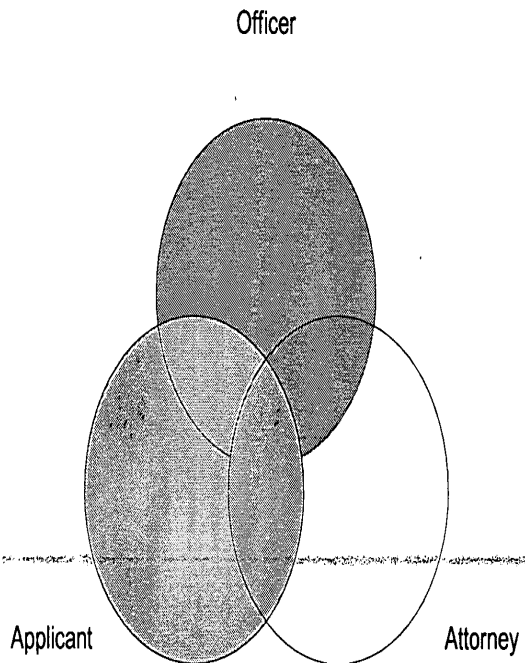
(from the Adjudicator's Field Manual)

- "The principal intent of the Service is not to oppose the interviewee's goal of obtaining a benefit, but to determine whether he or she qualifies for such benefit. If the interviewee qualifies for the benefit, it is in the Service's interest to accommodate that goal. On the other hand, if he or she does not qualify for the benefit, it is in the Service's interest to deny the application or petition. Therefore, unlike an adversarial proceeding, the interests of the Service and the applicants are not mutually exclusive. In this determination, the officer is a neutral decision-maker, not an advocate for either side."

What does that mean?

- This is not a courtroom where two opposing viewpoints do battle with the hope that truth will emerge the victor.
- Everyone present *may* play a role in developing the case.
- There must be a balance between the applicant's burden of proof, and our responsibility to adjudicate.

So what does this have to do with attorneys?



- Somewhere in the overlapping areas is where the evidence you need will be revealed.
- Note that there will be interactions between the attorney and the applicant to which you will not be privy.

The Attorney's Role

- **INA: ACT 292 - RIGHT TO COUNSEL**

- Sec. 292. [8 U.S.C. 1362] In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

- Note that our interviews are not contemplated by Section 292, as we are not conducting removal or appeal proceedings.
- Technically, this means that attorneys are permitted to attend interviews only as a matter of courtesy. They do not, in fact, have a *right* to attend.
- This also means they have the same duty as the officer to behave with courtesy and respect.
- However, as a matter of policy, ejecting an attorney from an interview is an extreme measure that should not be taken without SAO direction.

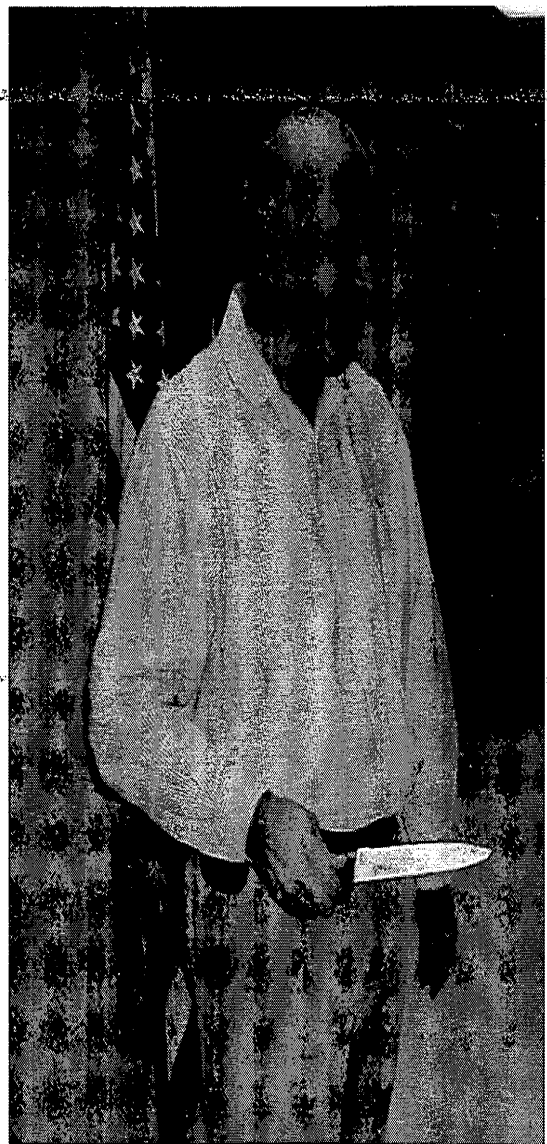
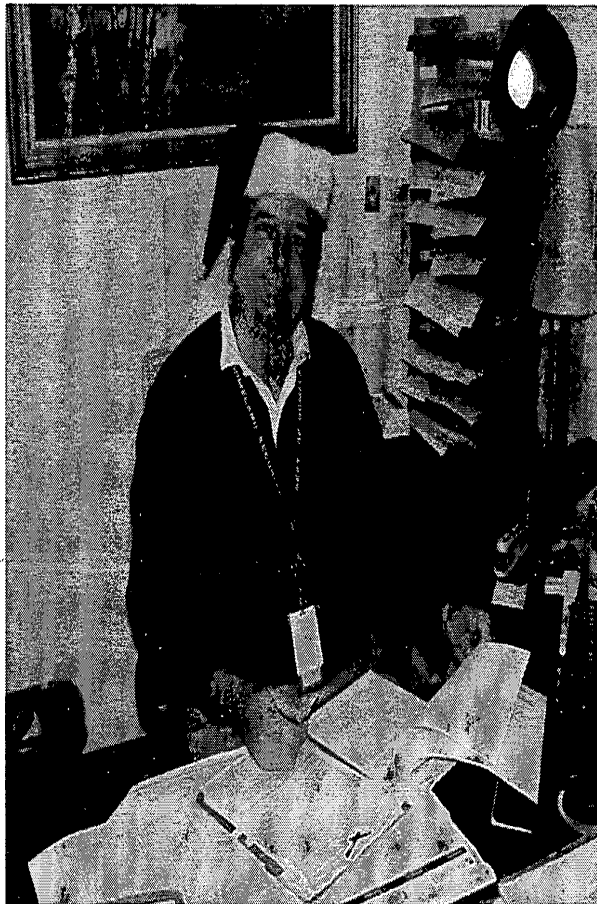
Role of Attorney or Representative in the Interview Process. (from the AFM)

- Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:
 - Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form **G-28**) is part of the record.
 - The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
 - Officers should not engage in personal conversations with attorneys during the course of an interview.

You can choose...

- A cooperative, relaxed interview where information is freely exchanged,
- Eligibility issues are identified, explored and developed,
- And adjudication is possible upon consideration of the evidence presented.
- Or,
- Discomfort all around,
- Accusations of lack of professionalism, lack of knowledge, some sort of bias, or misconduct,
- Interview gets hopelessly sidetracked into non-issues,
- And adjudication becomes tremendously difficult.

**In other words, with whom
would you rather have *your*
interview?**



The G-28

- What's it for?
- Who is being represented?
- When can it be submitted?
- For what purpose?
- Who is the representative?
- What is an attorney waiver?

G-28, cont

- The G-28 serves to give notice that an attorney or representative has "entered an appearance" in the case.
- That is, it shows the applicant has a representative.
- Depending on how it is completed, the G-28 can cover the petitioner, the beneficiary, or both.

G-28 cont, again...

- **The form can be submitted at any time and in connection with any type of application or petition. (Even with an inquiry, or other correspondence, such as a request for rescheduling.)**
- **The "In re:" portion should be specific, although in practice it is often general.**

G-28, still cont,

- The form must be properly executed for it to be honored. Some important issues:
 - Must be signed by the atty or rep
 - Must be legible
 - Must have all pertinent fields completed, “in re:,” address, names, signatures...
 - Special note: the applicant’s signature is required only when a usc or lpr. This block on the G28 is controlled by the terms of the Privacy Act of 1974.
 - Most recent G-28 controls.

Still more G-28

- 8CFR292.1 details those who can legitimately submit a G28.
- For practical purposes, this includes:
 - Attorneys
 - Law students (special rules apply)
 - Accredited Representatives (more rules)
 - Reputable individuals

Enough already with the G-28!

- With a properly executed G-28, we are obligated to:
 - cc: the representative with all notices.
 - Properly identify the representative at the interview.
 - Refrain from conducting an interview without the attorney present unless....

Attorney Waiver

- The standard attorney waiver applies only with respect to the attorney's appearance at that particular interview.
- Note that unless the applicant specifies that they no longer desire the services of the representative, we still honor the terms of the G-28.

Thank You!

Thank You Very Much!



Yowman, Andrea H

From: Ahumada, Crystal
Sent: Thursday, June 07, 2012 8:29 AM
To: Barnes, Christi N; Pham, Tuong G; Stepaniak, John; Wilburn, StanLee M; Yowman, Andrea H
Cc: Garcia, Oscar R
Subject: AFM.update - interview techniques
Attachments: PM-602-0055.1.Intvw.Tech.pdf

Please review the attached memo for updates to the AFM regarding attorneys, appearances, and interview techniques. Please try and review it before the town hall meeting as it may be brought up for discussion.

C. Jennifer Ahumada
Senior Immigration Services Officer
Dallas Field Office
6500 Campus Circle Drive East
Irving, TX 75063
972-582-5769
Crystal.Ahumada@dhs.gov

WARNING: This email contains a document (s) categorized as **FOR OFFICIAL USE ONLY (FOUO)**. The document (s) contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552). This email and its attachment (s) are to be controlled, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to Sensitive But Unclassified (SBU) information and are not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval from the originator.

\afm \ Adjudicator's Field Manual \ Chapter 15 Interviewing. \ 15.8 Role of Attorney or Representative in the Interview Process.

[Previous Document](#) [Next Document](#)

15.8 Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
 - The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
 - Officers should not engage in personal conversations with attorneys during the course of an interview.

\afm \ Adjudicator's Field Manual \ Chapter 15 Interviewing. \ 15.8 Role of Attorney or Representative in the Interview Process.

[Previous Document](#) [Next Document](#)

From Chapter 15.1 of the AFM

(2) Evaluating Requests for the Rescheduling of Interviews. (See 8 CFR 103.2(b)(9).)

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in AFM Chapter 15.1(d)(2).

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative, the USCIS official should obtain a written statement from the individual. Written statements are to be filed in the record of proceedings. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The officer should still consider statements and submissions by the individual's attorney or other representative in his or her absence.

(b)(6)

Ratcliff, Dora T

From: Ratcliff, Dora T
Sent: Tuesday, September 14, 2010 1:48 PM
To: Bernard, Benita S; Bush, Douglas A; Fuentes-Rivera, Luis; Gutierrez, Clara; Loret de Mola, Nancy; Poe, Kristi; Weirman, Gloria H
Subject: FW: Representatives
Attachments: BIA Accredited Organizations 09142010.doc
Importance: High

fyi

Dora T. Ratcliff
Supervisory Adjudications Officer
Dallas Field Office
6500 Campus Circle Drive East
Irving, TX. 75063
972-582-5114
[redacted] cell

From: Sapp, Jerry D
Sent: Tuesday, September 14, 2010 1:21 PM
To: Ahumada, Crystal; Appleberry, Cathy C; Barnes, Christi N; Bernard, Benita S; Booker, Rodney D; Brown, Loraine; Bush, Douglas A; Caez, Emma; Carpenter, Christopher W; Carpenter, Robin N; Castilla, Brenda; Chavful, Michelle R; Cherry, Stephanie L; Craig, Kris N; Cruz, Andres; Dobbins, Priscilla M; Enis, Jill S; Feng, Queng L; Fuentes-Rivera, Luis; Garcia, Ariscló; Garcia, Martha G; Garcia, Oscar; Gonzalez, Alfonso G; Gutierrez, Clara; Harvey, Gladys; Harvey, Tom E; Harry, Bridget A; Henson, James; Hernandez, Dexter; Hodges, Clinton; Hughes, James S; Jarvis, Cynthia L; Jenkins, Cathy M; Jones, John J; Kennon, Sheila M; Kepp, Cynthia M; Loret de Mola, Nancy; Martinez, Yvette; McElrath, Lisa; Molinar, Arturo R; Montellano, Alma L; Nash, Randall E; Nelson, Aisha; Perez, Doreen; Pham, Tuong G; Poe, Kristi; Ramirez, Jesus M; Ratcliff, Dora T; Ridlinghafer, Ralph D; Rosario, Sonia; Sapp, Jerry D; Shirah, Ross P; Stepaniak, John; Stewart, Chassidy M; Sun, Glyn Y; Taghavi, Haleh H; Tarango, Tracy; TenEyck, Tina; Wai, Chansy; Weirman, Gloria H; Wilburn, StanLee M; Wilkerson, Robyn S; Williams, Daniel E; Yowman, Andrea H; Chowdhury, Sayeed H; Davis, Laura M; Denison, Ana M; Francis, LaCrecia C; Held, Justin R; McCollum, Remonica R; Montoya, Bernadette I; Orr, Eva W; Shephard, John E; Smith, Gabrielle D; Yanez, Luz E
Subject: FW: Representatives
Importance: High

Please see message from Tracy below.

Jerry D. Sapp
Senior Adjudication Officer
Dallas Field Office
Dallas District (16)
U.S. Citizenship and Immigration Services
(972) 582-5702

From: Tarango, Tracy
Sent: Tuesday, September 14, 2010 11:57 AM
To: Sapp, Jerry D
Subject: Representatives
Importance: High

Jerry – please send this to the ISOs. Thanks.

(b)(6)

This is a reminder that only attorneys and representatives from BIA Accredited Organizations can represent applicants before USICS. This includes interviews and all other appointments. A G28 signed by the petitioner or applicant must either be in the file or presented at the appointment or interview identifying the attorney or authorized representative by name. BIA Accredited Organizations have completed a rigorous and difficult certification process through USCIS, ICE and then the BIA. A list of Accredited Organizations is attached. Otherwise, anyone accompanying the applicants to an appointment or interview may only serve as a translator and should not be allowed to interject anything else into the interview.

All attorneys representing applicants before USCIS should be a member of a state bar. If an attorney presents a G28 and you don't recognize the attorney, ask to see the attorney's bar card or do a search on the state's website. Not all states provide bar cards to attorneys. Accredited Representatives of BIA Accredited Organizations should be on the attached list. If they are not on the list, check the EOIR website listed on the attachment. Accredited Representatives are not attorneys and will not have a bar card.

It appears that officers are sometimes skipping this important check. As an example, there is an individual named [REDACTED] who has been attending interviews on a regular basis who is neither an Attorney nor from an accredited organization. He may be attending the interviews as a translator, but he appears to also be giving the applicants legal advice. It has been told that he has come with applicants and presented fraudulent N-648's, and also given applicants information that they can take the Naturalization interview in their own language even though they did not meet any of the waiver requirements.

Be vigilant; this is not only a safeguard for the integrity of our system, but also for the applicants.

We also need to safeguard our own personal and professional information. Don't give out phone numbers and email addresses of any of our staff. If anyone wants information about our community outreach program, take one of their business cards or their contact information and pass it on to Holly. You can also give the email address of the Community Outreach office: DAL-Community-Outreach@dhs.gov

Tracy Tarango
Field Office Director
U.S. Citizenship and Immigration Services
Dallas Field Office
tracy.tarango@dhs.gov
www.uscis.gov

Newman, Edward A

From: INTERNAL COMMUNICATIONS, USCIS
Sent: Friday, January 13, 2012 3:07 PM
Subject: USCIS Leadership Guidance#09-12

Interim Policy Memorandum: PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives



**U.S. Citizenship
and Immigration
Services**
Office of Communications

Leadership Guidance

January 13, 2012
#09-12

Interim Policy Memorandum

USCIS has cleared the following interim policy memorandum for distribution (Final date for comments: Feb. 14, 2012)

- PM-602-0055 (Dec. 21, 2011) The Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

There will be opportunities for field leadership to provide their input. Details on an internal USCIS engagement will come next week.

Draft and interim policy memos will be posted on www.uscis.gov/outreach for stakeholder review and comment. Interim and final policy memos are official USCIS policy documents and effective the date the memos are approved.

Visit the [Feedback Opportunities Web page](#) on Connect for additional information.

The USCIS Leadership Guidance is a product of the USCIS Office of Communications. To submit questions or cleared items, or to access previous Leadership Guidance, email [USCIS Internal Communications](#).



December 21, 2011

PM-602-0055

Policy Memorandum

SUBJECT: The Role of Private Attorneys and Other Representatives; Revisions to
Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Purpose

This policy memorandum (PM) provides guidance regarding the role of private attorneys and other representatives who appear before USCIS.

Scope

This PM applies to and is binding on all USCIS employees. This PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, part 1(b)(2), parts 2-4, and adds new Appendix 12-1.

Authority

Section 292 of the Immigration & Nationality Act
8 CFR 103; 292

Introduction

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the integrity of the immigration system. This goal is furthered when USCIS adjudicators recognize the range of individuals who may represent applicants and petitioners, respect the relationship between client and representative, and conduct interviews professionally. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews.

Background

An applicant or petitioner for immigration benefits may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.² This does not provide any applicant for admission to the United States with the right to representation, in either primary or secondary

¹ 8 CFR 103.2(a)(3) (2011)

² 8 CFR 292.5(b) (2011)

inspection at a port of entry or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

Prior to 1994, the regulations governing the adjudication of applications and petitions (8 CFR 103.2) did not include provisions specifically addressing the representation of applicants and petitioners during such proceedings. In 1991, the Immigration and Naturalization Service ("Service") proposed amending the regulations at 8 CFR 103.2 to provide that an applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.³ The Service proposed limiting the categories of eligible representatives in application and petition proceedings from the "broad range" of representatives listed in 8 CFR 292.1. Moreover, in order to properly document representation, the Service proposed revising 8 CFR 292.4(a)(4) to require that an applicant or petitioner sign the notice of appearance in order to authorize representation before the Service.⁴ In adopting these changes in a final rule in 1994, the Service determined that the reasons cited in the supplemental information in the proposed rule supported requiring the signature of the applicant or petitioner on the G-28 and that this was also a way to help combat the unauthorized practice of law by ineligible individuals.⁵ This final rule included the language in 8 CFR 103.2(a)(3) that exists today⁶ and added to 8 CFR 292.4 the requirement that the notice of appearance form be signed by the applicant or petitioner in order to authorize representation before the Service.⁷

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in 8 CFR 103.2(a)(3).⁸ The change reinforced the determination that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not submit a notice of appearance form in application and petition proceedings before DHS, and notification regulations do not apply to them.⁹ These other categories of individuals may appear as "other representatives" at interviews or other in-person meetings with USCIS officials. However, the appearance of these "other representatives" is subject to the approval of the USCIS official after the individual submits a statement addressing the requirements specified in 8 CFR 292.1(a)(2) and (3).

³ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 56 Fed. Reg. 6120161202 (proposed Dec. 2, 1991) (to be codified at 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁴ *Id.*

⁵ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 59 Fed. Reg. 1455 (Jan. 11, 1994) (amending 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁶ *Id.* at 1460.

⁷ *Id.* at 1466.

⁸ Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances, 75 Fed. Reg. 5225, 5227 (Interim rule with request for comments Feb. 2, 2010) (amending 8 CFR 1 and 292)

⁹ Law students and law graduates are permitted to provide their name and sign the Form G-28 filed by the supervising attorney or accredited representative. Instructions to Form G-28.

Policy

Effective immediately, USCIS Officers will follow the instructions contained in Chapter 12 of the *AFM* as amended by this PM.

Implementation

The *AFM* is revised as follows.

1. Revise the Table of Contents for Chapter 12 to read:

Chapter 12 Private Attorneys and Other Representatives

- 12.1 Representation in Immigration Proceedings
- 12.2 Notice of Entry of Appearance
- 12.3 Proper Service of Documents & Notices
- 12.4 Interviews
- 12.5 Conduct of Attorneys & Representatives
- 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

References

Section 292 of the INA
8 CFR 103 and 292

2. Revise Chapter 12 to read:

Chapter 12: Private Attorneys and Representatives

Chapter 12.1 Representation before USCIS

(A) General

An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹⁰ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.¹¹ This does not provide any applicant for admission the right to representation, in either primary or secondary inspection or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

¹⁰ 8 CFR 103.2(a)(3) (2011)

¹¹ 8 CFR 292.5(b) (2011)

Title 8 CFR 292.1 lists the types of individuals who may represent an individual before USCIS. Attorneys in the United States, attorneys outside the United States, and accredited representatives may provide legal representation after filing a Notice of Entry of Appearance on Form G-28 or G-28I. See below for specific details.

Title 8 CFR 292.1 also lists other categories of representatives – reputable individuals, law students, law school graduates, and accredited officials – who may assist an individual before USCIS. These individuals must provide additional information to the DHS official before whom they seek to appear, and that official must permit their appearance. These representatives are not eligible to file a notice of appearance (Form G-28) in application and petition proceedings, and USCIS does not communicate with them in writing regarding application or petition proceedings.¹² Each of these representatives must file a statement or declaration described in greater detail below. The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

These individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office in order to support an applicant or petitioner and provide non-legal assistance. However, these guidelines do not preclude any individual (such as a family member, friend, colleague, etc.) from helping an applicant or petitioner with the completion of forms, so long as the assistance does not constitute practice or preparation, as that term is defined in 8 CFR 1.1(k).

(B) Attorneys in the United States

An “attorney” is any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.¹³

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹⁴

¹² Id.

¹³ 8 CFR 1.1(f) (2011).

¹⁴ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

(C) Attorneys outside the United States

An “attorney outside the United States” is an attorney (other than one who fulfills the requirements of an “attorney” in the United States) “who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice.”¹⁵

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a “Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States” (Form G-28I) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁶

(D) Accredited Representatives

An “accredited representative” is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) to practice before the Executive Office for Immigration Review (EOIR), including the immigration courts, the BIA and DHS.¹⁷

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and DHS at www.justice.gov/eoir/legalrepresentation.htm.
- Accredited representatives must submit a “Notice of Entry of Appearance as Attorney or Accredited Representative” (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁸

(E) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must

¹⁵ 8 CFR 292.1(a)(6) (2011)

¹⁶ 8 CFR 292.4(a) (2011); Instructions for Form G-28I (04/22/09)

¹⁷ 8 CFR 292.1(a)(4) & 8 CFR 292.2

¹⁸ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

not receive payment directly or indirectly for his representation.¹⁹ A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²⁰

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12-1).
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²¹
- USCIS does not accept Forms G-28 filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²²
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in person in that case. The reputable individual will not receive copies of notices or other written communication that USCIS sends to the individual being represented.²³

(F) Law Students and Law School Graduates

Law students who are enrolled in an accredited U.S. law school and law graduates of an accredited U.S. law school not yet admitted to the bar may provide representation, constituting practice and preparation, with the supervision required in 8 CFR 292.1(a)(2).

- Law students and law graduates must seek permission to appear in proceedings before DHS officials.²⁴ The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate.²⁵
- A law student enrolled in an accredited U.S. law school must file a statement that states that, he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or

¹⁹ 8 CFR 292.1(a)(3) (2011)

²⁰ 8 CFR 292.1(a)(3)(iii) (2011)

²¹ 8 CFR 292.1(a)(3)(iv) (2011)

²² 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

²³ 8 CFR 103.2(a)(3) and 292.5(a) (2011).

²⁴ 8 CFR 292.1(a)(2)(iv) (2011)

²⁵ 8 CFR 292.1(a)(2) (2011)

- clinic conducted by a law school or non-profit organization, and is appearing without direct or indirect remuneration from the individual he or she represents.²⁶
- A law school graduate of an accredited U.S. law school who is not yet admitted to the bar must file a statement that states that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.²⁷
 - The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) on which the law student or law graduate provides his or her name and signature.²⁸ All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the G-28 (not the law student or law graduate).
 - If the USCIS officer observes an action by a law student or graduate that provides good cause for the officer to believe that the representation by the law student or graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative.

(G) Accredited Officials

Although it is rare, an accredited official of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant or petitioner's consent.²⁹

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See Sample Statement in Appendix 12-1.)
- DHS does not send notices or other written communications to accredited officials.

12.2 Notice of Entry of Appearance

(A) Filing a Notice of Entry

Attorneys, attorneys outside the United States, and accredited representatives must establish their eligibility to appear on the form designated by DHS in each case.³⁰

²⁶ 8 CFR 292.1(a)(2) (2011)

²⁷ 8 CFR 292.1(a)(2) (2011)

²⁸ 8 CFR 292.1(a)(2) (2011); Instructions to Form G-28. (Submitted to OMB on Oct. XX, 2011 for 60 day notice)

²⁹ 8 CFR 292.1(a)(5) (2011)

³⁰ 8 CFR 292.4(a) (2011)

- Attorneys and accredited representatives must submit a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.
- Attorneys outside the United States must submit a Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States.
- The Form G-28 and Form G-28I must be properly completed and signed by the applicant or petitioner in order for the appearance to be recognized by USCIS. Once the Form G-28 or Form G-28I is accepted, the appearance will be recognized until the conclusion of the matter for which it was entered.
- When filing an appeal with the Administrative Appeals Office on Form I-290B, the attorney or accredited representative must file a new Form G-28.
- Other representatives (law students and law graduates, reputable individuals, and accredited officials) may not submit Form G-28 or Form G-28I and may only appear after filing a statement in which they provide specific information listed in the regulations.³¹ The appearance of these other representatives is subject to the approval of the USCIS official before whom they seek to appear.³²

USCIS officers may verify an attorney's or accredited representative's eligibility and require further proof of authority to act in a representative capacity. Officers should seek more information at the DHS Disciplinary Counsel website and at www.justice.gov/eoir/legalrepresentation.htm. Officers should also reference the list of disciplined practitioners at <http://www.justice.gov/eoir/discipline.htm>, which includes attorneys and accredited representatives who are currently expelled or suspended from practice before DHS and EOIR. USCIS officers should be aware of individuals who have falsely claimed to be attorneys or accredited representatives when they are not and individuals who have been the subject of federal state or local court action to stop their unauthorized practice of law or theft of fees for legal services they may not lawfully provide. USCIS is not to communicate with such individuals, even if they submit a "Notice of Entry of Appearance as Attorney or Representative" (Form G-28) in a case.

(B) Substitution or Withdrawal of Representation

It is not uncommon for applicants or petitioners to wish to change representatives or elect to forgo representation during the course of a proceeding. Substitution or withdrawal of an attorney or accredited representative may be made upon the written withdrawal of the attorney or accredited representative of record or upon notification of the new attorney or accredited representative.³³ An applicant or petitioner may elect to proceed without his or her representative, but must submit a written statement to the USCIS official that he or she has voluntarily chosen to proceed without representation.

³¹ 8 CFR 292.1(a)(2), (3) and (5) (2011).

³² See fn. 28.

³³ 8 CFR 292.4 (2011)

12.3 Proper Service of Documents & Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative.³⁴ Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the benefit notice will also be sent to the applicant or petitioner. **EXCEPTION:** Secure identification documents such as Form I-551, Permanent Resident Card or Form I-766, Employment Authorization Document, can only be sent to the applicant.³⁵

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented.³⁶ The receipt notice and any other notices will be sent only to the applicant or petitioner.

12.4 Interviews

When an examination is to be conducted in immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

Only an attorney, an attorney outside the United States, an accredited representative, or a law student or law graduate appearing with proper supervision and with the permission of a DHS official may provide legal advice to an applicant, petitioner, or witness.³⁷ USCIS may allow other eligible representatives (including reputable individuals, law students, and law school graduates), who have obtained the consent of the applicant, petitioner, beneficiary or other witness, to appear at interviews with the individual. These individuals must seek permission from the presiding DHS official to appear at the interview. Other categories of representatives may provide non-legal assistance and support that does not constitute practice or preparation, as defined in 8 CFR 1.1.

³⁴ 8 CFR 292.5 (2011).

³⁵ 8 CFR 103.2(b)(19)

³⁶ 8 CFR 103.2(a)(3) (2011)

³⁷ 8 CFR 1.1(i), (j) and (k).

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or eligible representatives of both the petitioner and beneficiary will be permitted to appear at the interview.³⁸ In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. Any individual appearing in a representative capacity may not respond to questions the interviewing officer has directed to the applicant, petitioner, or witness, except to ask clarifying questions.

An attorney or representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview.³⁹ If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings.

12.5 Conduct of Attorneys and Representatives

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies.⁴⁰ Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the [Disciplinary Counsel website](#) for more information on professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes argumentative, the officer should seek assistance from a supervisor. The attorney or representative may raise an objection on an inappropriate line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to [DHS Disciplinary Counsel](#) through appropriate supervisory channels.

³⁸ 8 CFR 103.2(a)(3) (2011)

³⁹ Exceptions may be made if the interests of the Government will not be prejudiced.

⁴⁰ 8 CFR 292.3 (2011)

- ☛ 3. Add Appendix 12-1 the Table of Contents for Appendices.

Appendix 12-1 Sample Statements and Declarations

- ☛ 4. Appendix 12-1 is added as follows:

Appendix 12-1 Sample Statements and Declarations

**SAMPLE STATEMENT OF LAW STUDENT REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a law student enrolled in Anystate Law School, an accredited U.S. law school.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am participating under the direct supervision of Sam Samuels, a faculty member, Susan Williams, a licensed attorney, or Joe Johnson, a BIA accredited representative in a legal aid program or clinic conducted by a law school or non-profit organization.

I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF A LAW GRADUATE REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a graduate of Anystate Law School, an accredited U.S. law school, who is not yet admitted to the bar.

I received my law degree on June 1, 2011 and will take the bar examination on February 21, 2012; or, sat for the bar examination on July 24, 2011 and have not yet received my results.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am appearing under the supervision of Susan Williams, a licensed attorney, or Joe Johnson, an accredited representative. I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE DECLARATION OF A REPUTABLE INDIVIDUAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a reputable individual of good moral character, as defined in 8 CFR 292.1(3).

I am appearing on an individual case basis at the request of Jane Doe, a person entitled to representation. I am appearing without direct or indirect remuneration. I have a pre-existing relationship with Jane Doe as a relative, neighbor, clergyman, business associate, and/or personal friend.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I declare, under penalty of perjury under the laws of the United States of America, that this statement is all true and correct.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF AN ACCREDITED OFFICIAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as an accredited official of the Nowhereland government to which Jane Doe owes allegiance.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I am appearing with the consent of Jane Doe, a person entitled to representation.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

5. Revise Chapter 15.1(b)(2) to read:

15.1 Interview Policies

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews . **[Revised 11-23-2005]**

(2) Evaluating Requests for the Rescheduling of Interviews (See 8 CFR 103.2(b)(9))

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in *AFM Chapter 15.1(d)(2)*.

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative the USCIS official should obtain a written statement from the individual. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The

officer may still consider statements and submissions by the individual's attorney or other representative in his or her absence.

6. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for adjustment, naturalization, marriage fraud and conditional resident removal interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and applicant, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless the physical layout of the interview space cannot accommodate it. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area

should be reasonably proximate to the interview area to minimize lost time between interviews.

7. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both males and females should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being questioned.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the interviewee becomes abusive or if derogatory information is developed. If necessary, contact a supervisor.
- Be fair, courteous, and patient without diminishing in any degree full and complete development of the material facts, whether they be favorable or adverse to the person being interviewed or any other person.

- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.
- Ensure that your demeanor is unprejudiced, impartial, and creates no foundation for complaints that you have been unfair or have used any mistreatment or duress.

☛ 8. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the interviewee(s)) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / interviewee(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding

any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case.

(c) At the Interview

- Greet the interviewee in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) to be sworn or affirmed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such statement is not taken, the memorandum record of the interview should show that the person was under oath or affirmation.
- An applicant or the applicant's attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- Persons being questioned should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. In this connection, however, remember that an adjudicator is duty-bound to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The subject(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The interviewee is unable to communicate without an interpreter and one is not available.
- An interpreter clearly has difficulty in translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The subject refuses to respond to questions essential to the successful completion of the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the subject(s) or representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An alien, or attorney or accredited representative with a properly executed Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28), may request a personal review and/or copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer. The requesting party may file a Freedom of Information/Privacy Act Request (Form G-639) with USCIS to gain access to other record material.

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

9. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 12/21/2011	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12, Private Attorneys and Other Representatives; new Appendix 12-1, Sample Affidavits; and revisions to Chapter 15.1(b)(2), Chapter 15.2, Chapter 15.3, and Chapter 15.4.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

[Previous Document](#) [Next Document](#)

12.1 Representation before USCIS (Revised 5/23/2012; PM-602-0055.1, AD11-42)

(a) General

An applicant or petitioner may be represented in matters filed with USCIS¹. Whenever an examination is provided for under the regulations, the person involved has the right to be represented by an attorney or representative before USCIS².

Title 8 CFR 292.1 lists the categories of individuals who may represent a "person entitled to representation" before DHS, "subject to the limitations in 8 CFR 103.2(a)(3)." An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization³. Only these categories of representatives may file a notice of appearance on Form G-28 or G-28I in an application or petition proceeding before USCIS.

Law students and law graduates may engage in practice⁴ and preparation⁵ under the requirements described in the regulations⁶ but may not be the official representative of record on Form G-28. USCIS provides notices in writing to the supervising attorney or accredited representative identified as the representative on the Form G-28. Law students and law graduates may attach a statement with the information required in 8 CFR 292.1(a)(2) to the Form G-28 filed by their supervising attorney or accredited representative, or in person at a USCIS office. A law student or law graduate who has filed the required statement in a case may communicate with USCIS in writing. Substantive filings require the signature of the supervising attorney or accredited representative. See section 12.1(e) for additional information.

Reputable individuals and accredited officials may assist a person entitled to representation before USCIS. Unless otherwise licensed to do so, reputable individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office. These individuals may not file a Form G-28. They must provide a written declaration to the USCIS official before whom they seek to appear, and may participate in the interview process only if that official permits their appearance. The original of this written declaration is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding. An accredited official of the government to which an applicant or petitioner owes allegiance may appear at an interview solely in his or her official capacity and only with the applicant's or petitioner's consent⁷. See section 12.1(f) for additional information.

USCIS does not provide notices in writing to reputable individuals or accredited officials⁸.

(b) Attorneys in the United States

An "attorney" is any person who is eligible to practice law in and is a member in good standing

of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.⁹

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹⁰

(c) Attorneys outside the United States

An "attorney outside the United States" is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹¹

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States" (Form G-281) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹²

(d) Accredited Representative

An "accredited representative" is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) and has been accredited by the BIA to represent others in immigration proceedings before the immigration courts and the BIA of the Executive Office for Immigration Review and/or DHS.¹³

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and/or DHS at www.justice.gov/eoir/legalrepresentation.htm. Accredited representatives who are listed as "partially accredited" are authorized to practice only before DHS.
- Accredited representatives must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁴

(e) Law Students and Law Graduates not yet admitted to the bar

Law students who are enrolled in an accredited U.S. law school and **law graduates** of an accredited U.S. law school who are not yet admitted to the bar may engage in practice¹⁵ and preparation¹⁶, constituting representation¹⁷ under supervision as required in 8 CFR 292.1(a)(2).

- The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in application and petition proceedings before USCIS
- A **law student** enrolled in an accredited U.S. law school must file a statement that he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or non-profit organization and is appearing without direct or indirect remuneration from the individual he or she represents.¹⁸
- A **law school graduate** of an accredited U.S. law school who is not yet admitted to the bar must file a statement that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.¹⁹
- The statement from the law student or law graduate may be attached to the Form G-28 filed by the supervising attorney or accredited representative, or submitted in person at a USCIS office. (See Sample Statement in Appendix 12-1.)
- Law students and law graduates must seek permission from the DHS official before whom they seek to appear with an applicant or petitioner in person at a USCIS office²⁰. If the DHS official does not permit a law student or law graduate to appear, the reason for this decision shall be provided to the law student or law graduate in writing.
- The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate²¹. Law students and law graduates who are accompanied by the supervising attorney or accredited representative shall be permitted to appear at the interview or other examination.
- If the USCIS officer observes an action by a law student or law graduate that provides good cause for the officer to believe that the representation by the law student or law graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative if they are not present.
- All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the Form G-28 (not the law student or law graduate). Law students and law graduates who have submitted a statement with the information required in 8 CFR 292.1(a)(2) may communicate in writing with USCIS with regard to procedural issues, such as rescheduling of interviews or biometrics appointments. Substantive filings, such as the filing of briefs or submission of evidence, require the signature of the supervising attorney or accredited representative.

(f) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must not receive payment directly or

indirectly for his or her representation²². A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²³

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in [Appendix 12-1](#).)
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²⁴
- USCIS does not accept Forms [G-28](#) filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²⁵
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in-person in that case. /li>
- USCIS does not send notices or other written communications to reputable individuals.²⁶

(g) Accredited Officials

An **accredited official** of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant's or petitioner's consent.²⁷

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See [Sample Statement in Appendix 12-1](#).)
- USCIS does not send notices or other written communications to accredited officials.²⁸

NOTES

¹ 8 CFR 103.2(a)(3) (2011)

² 8 CFR 292.5(b) (2011). Refugee applicants do not have the right to representation, as such applicants are deemed to be applicants for admission. Consistent with the longstanding position of the former Immigration and Naturalization Service and USCIS, refugee applicants do not have the right to representation during an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody as outlined in 8 CFR 292.5(b). Accordingly, this guidance does not apply to the Refugee Affairs Division or the Asylum Division of the Refugee, Asylum, and International Operations Directorate, which are governed by other established procedures, guidance, and lesson plans. This guidance does not apply to site visits conducted by the Fraud Detection and National Security Directorate, which are governed by other established procedures, guidance, and lesson plans.

³ 8 CFR 103.2(a)(3) (2011)

⁴ 8 CFR 1.2

⁵ 8 CFR 1.2

⁶ 8 CFR 292.1(a)(2) (2011)

⁷ 8 CFR 292.1(a)(5) (2011)

⁸ Id.

⁹ 8 CFR 1.2 (2011)

¹⁰ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹¹ 8 CFR 292.1(a)(6) (2011)

¹² 8 CFR 292.4(a) (2011); Instructions for Form G-281 (04/22/09)

¹³ 8 CFR 292.1(a)(4) & 8 CFR 292.2

¹⁴ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

¹⁵ 8 CFR 1.2 (2011)

¹⁶ 8 CFR 1.2 (2011)

¹⁷ 8 CFR 1.2 (2011)

¹⁸ 8 CFR 292.1(a)(2) (2011)

¹⁹ 8 CFR 292.1(a)(2) (2011)

²⁰ 8 CFR 292.1(a)(2)(iv) (2011)

²¹ 8 CFR 292.1(a)(2) (2011)

²² 8 CFR 292.1(a)(3) (2011)

²³ 8 CFR 292.1(a)(3)(iii) (2011)

²⁴ 8 CFR 292.1(a)(3)(iv) (2011)

²⁵ 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

²⁶ 8 CFR 103.2(a)(3) and 292.5(a) (2011)

²⁷ 8 CFR 292.1(a)(5) (2011)

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

[Previous Document](#) [Next Document](#)

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.3
Proper Service of Documents & Notices
[Previous Document](#) [Next Document](#)

12.3 Proper Service of Documents & Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative. Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the benefit notice will also be sent to the applicant or petitioner.

EXCEPTION : Secure identification documents such as Form I-551, Permanent Resident Card, Form I-766, Employment Authorization Document, Form I-327 Re-entry Permit, and Form I-571 Refugee Travel Document can only be sent to the applicant.

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented. The receipt notice and any other notices will be sent only to the applicant or petitioner.

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.3
Proper Service of Documents & Notices
[Previous Document](#) [Next Document](#)

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.4
Interviews
[Previous Document](#) [Next Document](#)

12.4 Interviews

When an examination is to be conducted in Immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or other representatives of both the petitioner and beneficiary will be permitted to appear. In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. An attorney or representative may not respond to questions the USCIS officer directs to the applicant, petitioner, or witness, except to ask the USCIS officer to clarify the question asked. An attorney or representative may ask the applicant or petitioner additional questions at the conclusion of the interview by the officer.

An attorney or other representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview. If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings. See Chapter 15 for additional guidance on Interview Techniques.

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.4
Interviews
[Previous Document](#) [Next Document](#)

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.5
Rules of Professional Conduct for Practitioners
[Previous Document](#) [Next Document](#)

12.5 Rules of Professional Conduct for Practitioners

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies. Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the [Disciplinary Counsel website](#) for more information on the rules of professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative. Attorneys and other representatives have a duty to represent their clients zealously. They must, however, do so within the bounds of the law and in accordance with the Rules of Professional Conduct for Practitioners.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes disruptive, abusive, or otherwise interferes with the orderly process of the interview, the officer should seek assistance from a supervisor. The attorney or representative may object to the appropriateness of a line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to [DHS Disciplinary Counsel](#) through appropriate supervisory channels.

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.5
Rules of Professional Conduct for Practitioners
[Previous Document](#) [Next Document](#)

\afm \ Adjudicator's Field Manual \ Chapter 12 Attorneys and Other Representatives. \ 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

[Previous Document](#) [Next Document](#)

12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

(a) Establishing a Recognition and Accreditation Point-of-Contact (POC) or Team.

(1) Identify a single recognition and accreditation POC or designate several operational staff members in each district office to be part of a recognition and accreditation team to handle these requests.

(2) Each district office should identify a recognition and accreditation POC or team comprised of several operational staff members from its operational staff (e.g., Field Office Director, Community Relations Officer, Fraud Detection and National Security (FDNS) Officer, officer from the Office of Security and Integrity (OSI)) who is most appropriate for that particular office. The recognition and accreditation POC or team should be familiar with the community-based organizations in the district and have worked with local BIA recognized organizations.

Note: To the extent possible, a recognition and accreditation team should include a Community Relations Officer and an FDNS officer.

(b) Ensuring Timely Receipt of Requests for USCIS Recommendation.

(1) Notify field offices that all such requests should be forwarded to the district office.

(2) Expedite mailroom processing to ensure that the recognition and accreditation POC or team receives all Forms EOIR-31 and applications for accreditation of representative(s) well before the response period expires, thirty days after USCIS receives each Form EOIR 31.

(3) Date stamp all Forms EOIR-31 and applications for accreditation of representative(s) on the date they arrive at the district office to ensure that the recognition and accreditation POC or team knows when the 30-day period will expire.

(c) Reviewing Requests for USCIS Recommendation.

(1) Upon receiving a request, if it is unlikely the office will be able to respond within 30 days, the recognition and accreditation POC or team should immediately request

an appropriate extension through the BIA Recognition and Accreditation Coordinator so that the BIA is aware that a response from USCIS will be forthcoming. One to two weeks after a request for an extension is submitted, the POC or a team member should contact the BIA Recognition and Accreditation Coordinator to determine whether he or she granted the extension. The program coordinator's telephone number is (703) 305-9029.

(2) The recognition and accreditation POC or team should review the organization or individual's qualifications to provide Immigration services.

Note: The USCIS Checklist: Request for BIA Recognition and Accreditation (see Appendix 12-1) and the USCIS Worksheet: Requests for Recognition and Accreditation Processing and Procedures (see Appendix 12-2) may be used as a resource to help organize requests for recognition and accreditation, but use of the checklist and worksheet is not required.

In evaluating the qualifications of an organization, the team should review relevant information, which may include:

- Form EOIR-31;
- Evidence of non-profit status;
- Evidence of what type of services the organization intends to provide;
- Source of the organization's funding;
- Evidence of knowledge, information, and experience in immigration law and procedure;
- Proposed fee structure for services;
- Any additional information, including IBIS checks, review of agency databases including SCCLAIMS, site visits, personal interviews of organization officials, and references; and
- Evidence that the organization or individual is being investigated or prosecuted in a civil or criminal matter for violations relevant to the EOIR-31 (e.g., consumer fraud, unauthorized practice of law, etc.).

In evaluating the qualifications of an individual for whom a recognized organization has filed a request to be accredited as a representative, the recognition and accreditation POC or team should review relevant information, which may include:

- Request for accreditation of representative submitted by recognized organization;
- Letters of recommendation, awards, training certificates, etc.;
- Evidence of experience and knowledge of immigration and naturalization law and procedure;
- Evidence of compensation agreement with the recognized organization;
- Evidence of plan for supervision of accredited representative by recognized organization;
- Any additional information regarding the individual's relationship with the recognized organization, qualifications, and good moral character, including: site visits, personal interviews of organization officials, and references; and

- Evidence that the organization or individual is being investigated or prosecuted in a civil or criminal matter for violations relevant to the request (e.g., consumer fraud, unauthorized practice of law, etc.).

(3) The recognition and accreditation POC or team should seek input from the local ICE office, district Community Relations Officer and the Field Office Director, FDNS officers, supervisory and senior immigration services officers, and USCIS counsel in the jurisdiction where the organization is located.

(4) If the recognition and accreditation POC or team and other USCIS staff are not familiar with the organization or individual, the District or Field Office Director should contact the organization or individual practitioner to assess the strength of the application.

(5) The recognition and accreditation POC or team should conduct checks of media reports, public databases, and other sources to obtain additional information about the organization and individuals seeking accredited representative status.

(6) The recognition and accreditation POC or team should ask FDNS to vet individuals seeking accreditation and any organizations seeking recognition that have not previously been fully vetted through USCIS fraud databases, such as the FDNS data system. If necessary, the POC or team should ask ICE to conduct further background checks.

(7) The recognition and accreditation POC or team should check with the state bar (with the assistance of local USCIS counsel where possible) and other appropriate state agencies, the local FDNS unit, EOIR Disciplinary Counsel (full accreditation requests only), and USCIS Disciplinary Counsel to determine whether there have been any complaints about the organization or individual(s) applying for recognition or accreditation status. The EOIR Office of General Counsel can be contacted at (703) 305-0470.

(d) Responding to Requests for USCIS Recommendation.

(1) If the district office recommends approval, the District Director should submit a letter to the BIA with supporting evidence, if available (see [Appendix 12-3](#)). A copy of all documents filed with the BIA must be served on the organization. Personal information identifying customers or stakeholders should be redacted as required by the Privacy Act and DHS policy.

(2) If the district office recommends against approval, a letter should be submitted to the BIA with supporting evidence, if available (see [Appendix 12-4](#)). Supporting evidence is not required, but may include affidavits or sworn statements by adjudicators, investigators, clients of the applicant representative; criminal history reports; G-28s; investigation results, etc. Note: USCIS may not base a negative recommendation on information that it is unwilling or unable to release to the BIA. A copy of all documents filed with the BIA must be served on the organization.

Personal information identifying USCIS officers, customers, or other stakeholders should be redacted as required by the Privacy Act and DHS policy.

(3) The recognition and accreditation POC or team should track all requests for recognition, including the date the Form EOIR-31 is received, due dates for response, date on which a request for additional time in which to submit the recommendation is filed with the BIA, the due date after an extension is granted by the BIA, the date that the recommendation is submitted to the BIA by USCIS or ICE, and the date and disposition by the BIA.

(4) The recognition and accreditation POC or team should retain copies of the all documentation related to the Form EOIR-31 and application(s) for accreditation of representatives.

(e) After Submitting Recommendation to BIA:

The recognition and accreditation POC or team should retain all responses from the BIA, and inform the local USCIS counsel, Field Office Director, and District Director of the BIA decision on all EOIR-31 forms and application(s) for accreditation of representative(s).

(f) Withdrawal of BIA Recognition or Accreditation.

If a USCIS officer believes that an organization's recognition should be revoked, he or she should report the concerns through the supervisory chain of command to the District Director. The District Director has authority to conduct an investigation and, if warranted, may submit a written request to the BIA requesting that the organization's recognition be withdrawn. The filing must include the results of the investigation of the recognized organization. The request must be filed with the BIA recognition and accreditation coordinator and a copy must be served on the organization. An immigration judge will hold a hearing and forward all evidence, along with his or her recommendation, to the BIA. USCIS, ICE, and the organization will have the opportunity to engage in an oral argument before the BIA, after which the BIA will render a decision.

(g) Summaries of BIA Decisions Relating to the Recognition and Accreditation Process.

***Matter of Ely Velez Pamatong* (Interim Decision #2743 - November 1979)**

- **Summary:** A graduate of the University of Philippines Law Program, who was considered a refugee by the U.N. High Commissioner for Refugees, applied for permission to represent individuals before the Board of Immigration Appeals and the Immigration and Naturalization Service. Notwithstanding the provisions of Article 19 of the Convention and Protocol Relating to the Status of Refugees, his application was denied because he was not an attorney within the meaning of 8 CFR 292.1, or fit under the categories listed in that provision.
- **Full Text of Decision**

***Matter of American Paralegal Academy, Inc.* (Interim Decision #3012 - April 1986)**

- **Summary:** Nominal charges are not defined in terms of specific dollar amounts, but have been interpreted to mean a very small quantity or something existing in name only as distinguished from something real or actual. An applicant for BIA recognition, whose charges for services exceed amounts which can be construed as nominal may not rely upon the notion that its fees are substantially less than those charged by law firms, or that its fees are one of the means by which it is able to fund itself.
- **Full Text of Decision**

Matter of Lutheran Ministries of Florida (Interim Decision #3132 - February 1990)

- **Summary:** An application for BIA recognition should include detailed information as to how the organization will operate and by whom it will be staffed, as well as other evidence regarding the organization's qualifications, such as resumes for the staff members and information as to the availability of legal resource materials, training programs in immigration law and procedure, and supervised employment for the staff.
- **Full Text of Decision**

Matter of Baptist Educational Center (Interim Decision #3210 - September 1993)

- **Summary:** During proceedings to withdraw an organization's recognized status, if an organization wishes to retain its recognized status, it must demonstrate by clear, unequivocal, and convincing evidence that it continues to satisfy the requirements for recognition.
- **Full Text of Decision**

In re Chaplain Services, Inc. (Interim Decision #3292 - July 1996)

- **Summary:** In an application for recognition, an applicant must respond to and successfully rebut an adverse recommendation made by the district director, even when such recommendation has been made in a prior recognition proceeding involving the applicant. In this case, the applicant's request for recognition was denied because, among others, applicant failed to rebut allegations made by the district director in prior recognition proceedings that the applicant's organization provided clients with misinformation; that the applicant improperly submitted Notices of Entry of Appearance as Attorney or Representative (Forms G-28) on behalf of a purportedly associated attorney who never performed services; that the applicant's clients had been charged excessive amounts for services in spite of the applicant's fee list which reflects nominal charges; and that the member of the applicant's staff upon whose expertise the applicant relies has been the subject of complaints for the unauthorized practice of law.
- **Full Text of Decision**

Matter of EAC Inc., Request for Recognition (Interim Decision #3614 - July 2008)

- **Summary:** The process of recognition is designed to evaluate the qualifications of only those nonprofit organizations that provide knowledgeable legal assistance to low-income aliens in matters involving immigration law and procedure. In order to establish that it has adequate knowledge of immigration law and procedure, an organization seeking recognition must have sufficient access to legal resources, which may include electronic or internet access, as well as resources provided by a law library. An organization seeking recognition must show that it has either a local attorney who is on the staff, offering pro bono services, or providing consultation under a formal arrangement; a fully accredited representative; or a partially accredited representative with access to additional expertise. A recognized organization that does not offer a full range of immigration legal services or whose staff is not sufficiently experienced to handle more complex immigration issues must have the ability to discern when it should direct aliens to seek other legal assistance.
- **Full Text of Decision**

Matter of EAC Inc., Request for Accreditation (Interim Decision #3615 - July 2008)

- **Summary:** All accredited representatives on the staff of a recognized organization must have a broad knowledge of immigration law and procedure, even if the organization only intends to provide limited services through one or more partially accredited representatives. In order to show that a proposed accredited representative has the broad knowledge and experience in immigration law and procedure required by 8 CFR § 1292.2(d) (2008), a recognized organization should submit the individual's resume, letters of recommendation, and evidence of immigration training completed, including detailed descriptions of the topics addressed.
- **Full Text of Decision**

\\afm\Adjudicator's Field Manual\Chapter 12 Attorneys and Other Representatives. \ 12.6
Role of USCIS District Directors in the Board of Immigration Appeals Recognition and
Accreditation Process.

[Previous Document](#) [Next Document](#)

Hot Topics

April 14, 2011

Field Interaction with Attorneys and Representatives

USCIS has received reports that several offices appear not to be in compliance with current USCIS practice when dealing with attorneys and representatives. Although Section 12 of the Adjudications Field Manual (AFM) related to this topic is being revised and is unavailable, several pieces of guidance are available including:

1. Section 15 of the AFM includes the following:

Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
- The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
- Officers should not engage in personal conversations with attorneys during the course of an interview.

2. Our public website has a summary of a Stakeholder meeting held in May 2010 and includes the following:

Role of the Attorney/Representative

Stakeholders continue to be concerned about how some attorneys are treated by USCIS adjudicators in the context of benefit interviews, particularly with regard to seating arrangements. FO leaders agree that, barring safety or security concerns, attorneys and/or accredited representatives should be able to sit next to their clients during benefit interviews. We are working on guidance to address concerns expressed by stakeholders and will post it once available on the USCIS website.

If an attorney or accredited representative feels that an adjudicator is asking inappropriate questions during the interview, they should ask to speak with a supervisor. USCIS has spent a considerable amount of time training the ISOs on interview techniques; the FO Directorate also has a quality assurance process on test administration to identify and address issues of concern.

The Agency respects the attorney-client relationship and asks that attorneys and accredited representatives likewise respect USCIS staff in the context of benefit and other interviews/interactions. Future guidance will address how ISOs should report instances involving perceived inappropriate conduct by attorneys and/or accredited representatives and also the reverse (i.e., how attorneys and/or accredited representatives should report perceived inappropriate behavior by ISOs).

3. Repeated below is an email from then Associate Director for Field Operations Debra Rogers which is still in effect.

Fraud Detection

Standard Operating Procedures



U.S. Citizenship and Immigration Services
Fraud Detection and National Security
Fraud Division

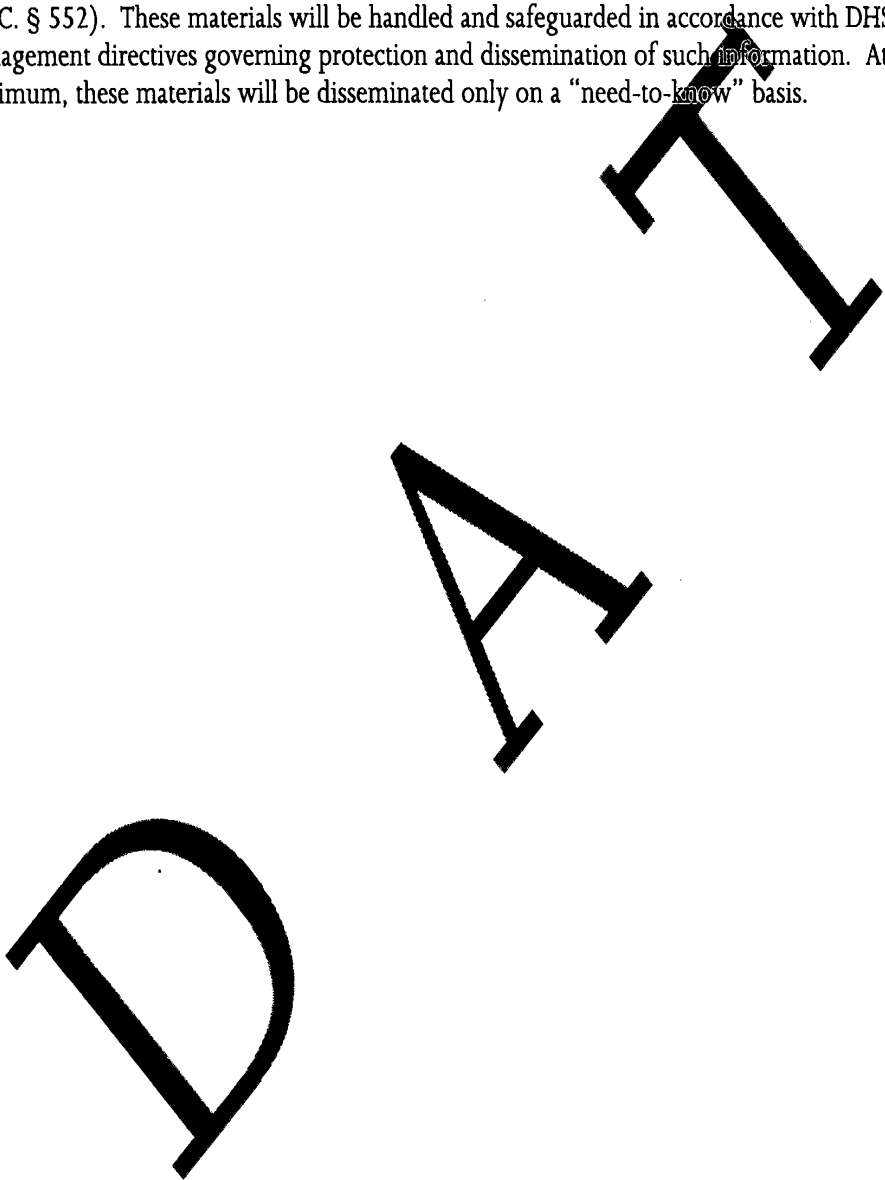
Date XX, 2013

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Version Control Record

Version	Date	Description of Revision/Update
3	3/17/2011	Initial Release
4		DACA and TECS Updates

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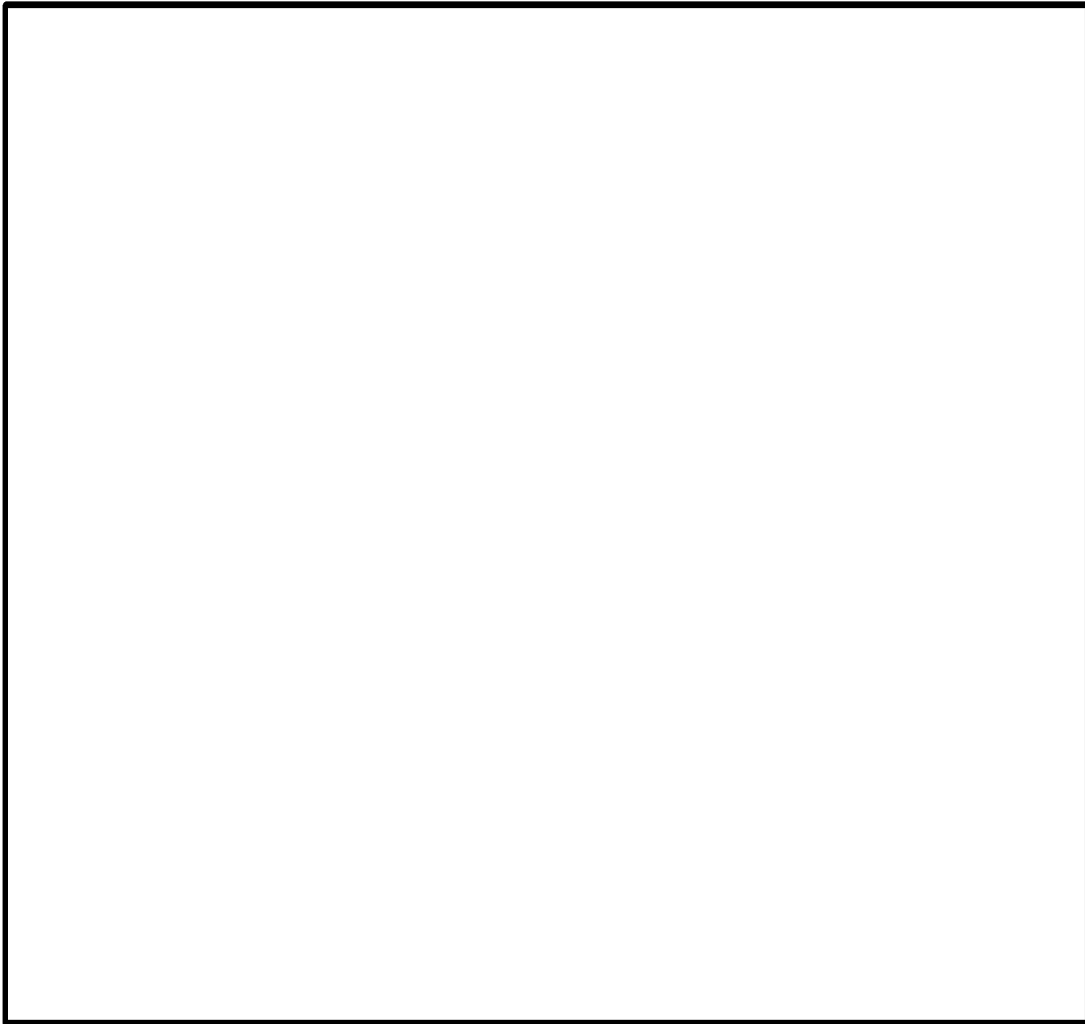
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Out-of-Scope



(b)(5)

2.17 Are the Subject(s) of the In-Office Interview Represented?

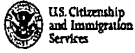
Performing Role: FDNS-IO

(b)(7)(e)



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(b)(5)

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Out-of-Scope



2.19 Schedule Interview

Performing Role: FDNS-IO

(b)(5)

(b)(7)(e)

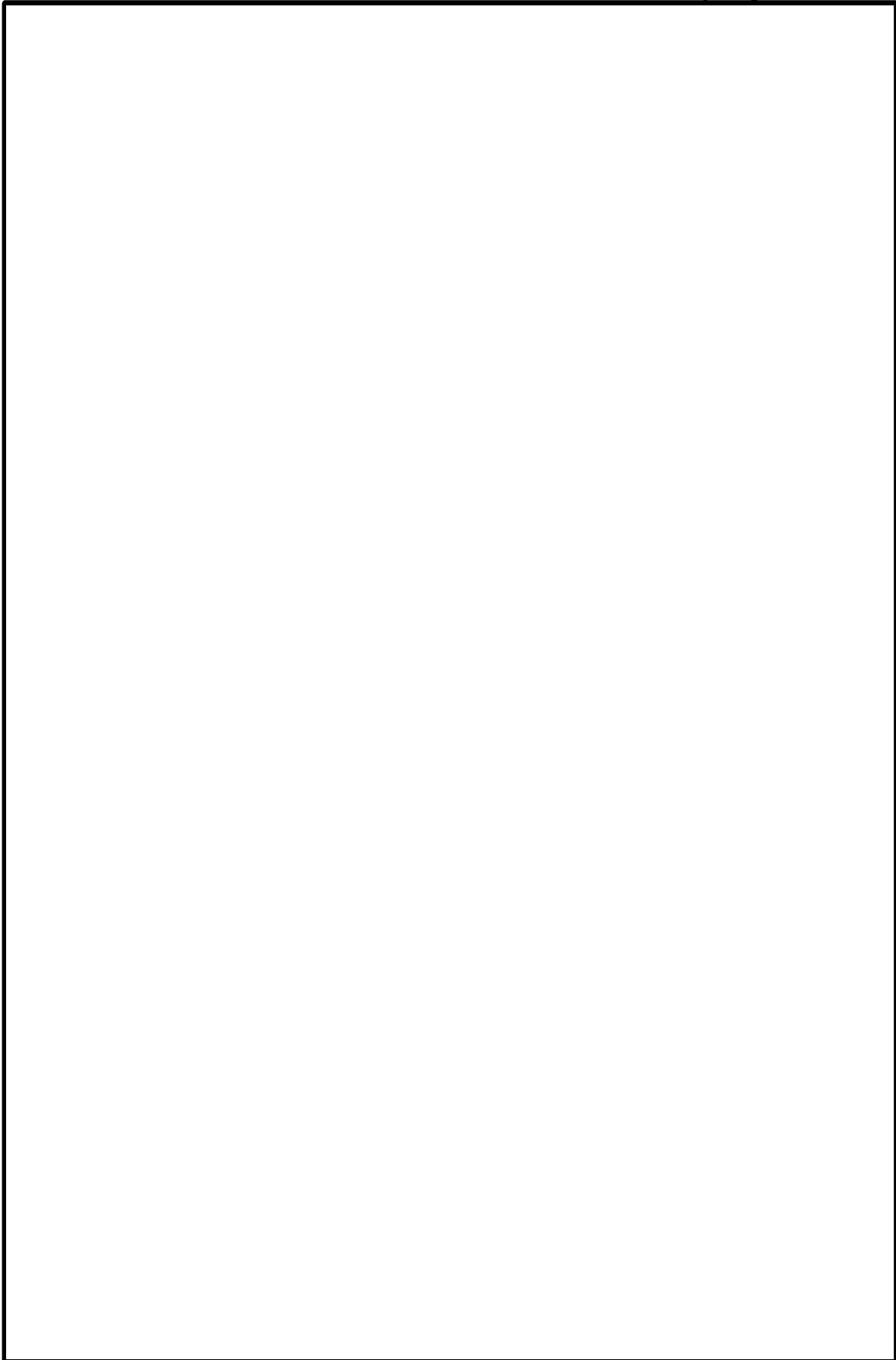


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From: Angelidis, Theodora P
Sent: Wednesday, March 27, 2013 1:16 PM
To: Collett, Greg L
Subject: MORE on ATTNY NOTIFICATION
Importance: High

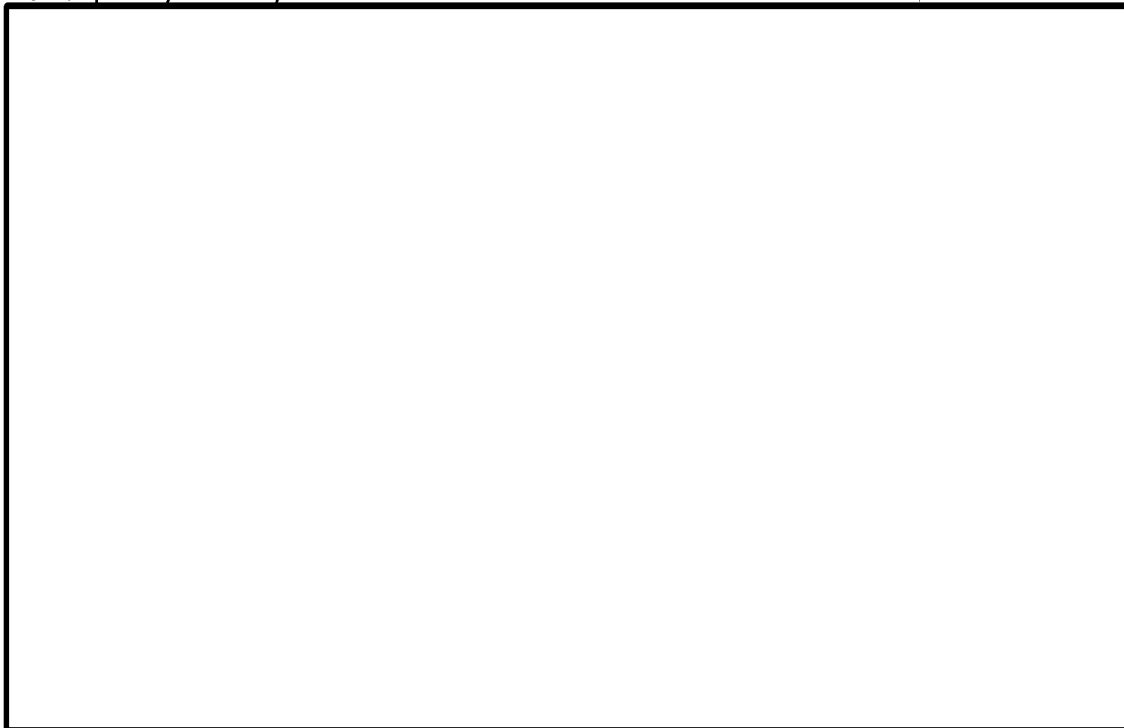
I also found the email below.

Teddi Angelidis
Supervisory Immigration Officer
DHS/USCIS
Fraud Detection & National Security
Baltimore, Maryland
(410) 637-8040

From: Spaulding, David
Sent: Tuesday, August 07, 2012 1:58 PM
To: Clarke, Arthur F; Lowe, Desiree A; Parra, Alfredo; Angelidis, Theodora P; Sassone, Joann P; Fonda, Christopher W; Parkinson, Valentine A

(b)(5)

(b)(7)(e)



Sincerely,

David

David Spaulding, Esq.
DHS/USCIS
Supervisory Immigration Officer

(b)(7)(c)

Fraud Detection and National Security (FDNS)
Philadelphia District Office, Philadelphia, PA

Office [REDACTED]

Fax: (215)255-4860

[REDACTED]



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Dinolfo, Gwynne M

From: Wyrrough, James T
Sent: Tuesday, January 24, 2012 3:27 PM
To: Dinolfo, Gwynne M; Hollingsworth, Gale M
Subject: Role of Attorneys and Representatives

Each of you needs to read the memo found at this link: [Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual \(AFM\) Chapters 12 and 15; AFM Update AD11-42](#). Please let me know when you are familiar with the memo as we will need to schedule a meeting with the ISOs immediately thereafter so that I may report to the DD that we have complied with her instruction below. Gwynne, you may want to sit in with me at the engagement tomorrow afternoon.

Thanks.

Jim

From: Holmes, M Frances
Sent: Tuesday, January 24, 2012 3:06 PM
To: Newman, Edward A; Tharpe, Jean M; Wyrrough, James T; Van Wilgèn, Leah
Cc: Flanagan, Patricia J
Subject: FW: USCIS Office of Public Engagement: Teleconference Invitation for Leadership

FODs:

If at all possible, you should attend this teleconference tomorrow.

Also- please let me know that you have read it and you or your SISOs have had a discussion with the ISOs about its content and that it is in effect. Thanks.

From: Public Engagement
Sent: Monday, January 23, 2012 6:57 PM
To: public.engagement@dhs.gov
Subject: USCIS Office of Public Engagement: Teleconference Invitation for Leadership

Good evening,

Please find attached an invitation for field leadership to participate in a teleconference with subject matter experts about the interim memo [Role of Private Attorneys and Other Representatives; Revisions to Adjudicator's Field Manual \(AFM\) Chapters 12 and 15; AFM Update AD11-42](#), recently posted for public comment. This teleconference, the first in a series of internal engagements, will be held on Wednesday, January 25 at 1:00 pm (Eastern).

During the engagement, subject matter experts from the Field Operations Directorate and Office of Chief Counsel will provide an overview of the memo and address questions. The engagement will also provide an opportunity for participants to share feedback on the memo outside of the public comment period.

We hope many of you will be able to join us.

Kind regards,

Office of Public Engagement
U.S. Citizenship and Immigration Services (USCIS)
www.uscis.gov/outreach

INTERIM MEMO FOR COMMENT

Posted: 01-17-2012

Comment period ends: 02-14-2012

This memo is in effect until further notice.

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000**U.S. Citizenship
and Immigration
Services**

December 21, 2011

PM-602-0055

Policy Memorandum

SUBJECT: The Role of Private Attorneys and Other Representatives; Revisions to
Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Purpose

This policy memorandum (PM) provides guidance regarding the role of private attorneys and other representatives who appear before USCIS.

Scope

This PM applies to and is binding on all USCIS employees. This PM replaces *AFM* Chapter 12, parts 1-5 and Chapter 15, part 1(b)(2), parts 2-4, and adds new Appendix 12-1.

Authority

Section 292 of the Immigration & Nationality Act
8 CFR 103; 292

Introduction

U.S. Citizenship and Immigration Services (USCIS) is committed to ensuring the integrity of the immigration system. This goal is furthered when USCIS adjudicators recognize the range of individuals who may represent applicants and petitioners, respect the relationship between client and representative, and conduct interviews professionally. The Department of Homeland Security has rules of professional conduct for employees and practitioners who practice before the Department. This policy memorandum provides guidance to adjudicators and balances the meaningful role of attorneys and representatives in the interview process with the important responsibility of adjudicators to conduct fair, orderly interviews.

Background

An applicant or petitioner for immigration benefits may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.² This does not provide any applicant for admission to the United States with the right to representation, in either primary or secondary

¹ 8 CFR 103.2(a)(3) (2011)

² 8 CFR 202.5(b) (2011)

inspection at a port of entry or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

Prior to 1994, the regulations governing the adjudication of applications and petitions (8 CFR 103.2) did not include provisions specifically addressing the representation of applicants and petitioners during such proceedings. In 1991, the Immigration and Naturalization Service ("Service") proposed amending the regulations at 8 CFR 103.2 to provide that an applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.³ The Service proposed limiting the categories of eligible representatives in application and petition proceedings from the "broad range" of representatives listed in 8 CFR 292.1. Moreover, in order to properly document representation, the Service proposed revising 8 CFR 292.4(a)(4) to require that an applicant or petitioner sign the notice of appearance in order to authorize representation before the Service.⁴ In adopting these changes in a final rule in 1994, the Service determined that the reasons cited in the supplemental information in the proposed rule supported requiring the signature of the applicant or petitioner on the G-28 and that this was also a way to help combat the unauthorized practice of law by ineligible individuals.⁵ This final rule included the language in 8 CFR 103.2(a)(3) that exists today⁶ and added to 8 CFR 292.4 the requirement that the notice of appearance form be signed by the applicant or petitioner in order to authorize representation before the Service.⁷

In 2010, the regulations at 8 CFR 292.1 were revised to specifically reference the limited categories of eligible representatives in application and petition proceedings set forth in 8 CFR 103.2(a)(3).⁸ The change reinforced the determination that the other categories of representatives listed in 8 CFR 292.1 (law students, law graduates, reputable individuals and accredited officials) may not submit a notice of appearance form in application and petition proceedings before DHS, and notification regulations do not apply to them.⁹ These other categories of individuals may appear as "other representatives" at interviews or other in-person meetings with USCIS officials. However, the appearance of these "other representatives" is subject to the approval of the USCIS official after the individual submits a statement addressing the requirements specified in 8 CFR 292.1(a)(2) and (3).

³ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 56 Fed. Reg. 6120161202 (proposed Dec. 2, 1991) (to be codified at 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁴ *Id.*

⁵ Changes in Processing Procedures for Certain Applications and Petitions for Immigration Benefits, 59 Fed. Reg. 1455 (Jan. 11, 1994) (amending 8 CFR 103, 214, 223, 223a, 248, 264 and 292)

⁶ *Id.* at 1460.

⁷ *Id.* at 1466.

⁸ Professional Conduct for Practitioners: Rules, Procedures, Representation, and Appearances, 75 Fed. Reg. 5225, 5227 (Interim rule with request for comments Feb. 2, 2010) (amending 8 CFR 1 and 292)

⁹ Law students and law graduates are permitted to provide their name and sign the Form G-28 filed by the supervising attorney or accredited representative. Instructions to Form G-28.

Policy

Effective immediately, USCIS Officers will follow the instructions contained in Chapter 12 of the *AFM* as amended by this PM.

Implementation

The *AFM* is revised as follows.

1. Revise the Table of Contents for Chapter 12 to read:

Chapter 12 Private Attorneys and Other Representatives

- 12.1 Representation in Immigration Proceedings
- 12.2 Notice of Entry of Appearance
- 12.3 Proper Service of Documents & Notices
- 12.4 Interviews
- 12.5 Conduct of Attorneys & Representatives
- 12.6 Role of USCIS District Directors in the Board of Immigration Appeals Recognition and Accreditation Process.

References

Section 292 of the INA
8 CFR 103 and 292

2. Revise Chapter 12 to read:

Chapter 12: Private Attorneys and Representatives

Chapter 12.1 Representation before USCIS

(A) General

An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.¹⁰ In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.¹¹ This does not provide any applicant for admission the right to representation, in either primary or secondary inspection or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.

¹⁰ 8 CFR 103.2(a)(3) (2011)

¹¹ 8 CFR 292.5(b) (2011)

Title 8 CFR 292.1 lists the types of individuals who may represent an individual before USCIS. Attorneys in the United States, attorneys outside the United States, and accredited representatives may provide legal representation after filing a Notice of Entry of Appearance on Form G-28 or G-28I. See below for specific details.

Title 8 CFR 292.1 also lists other categories of representatives – reputable individuals, law students, law school graduates, and accredited officials – who may assist an individual before USCIS. These individuals must provide additional information to the DHS official before whom they seek to appear, and that official must permit their appearance. These representatives are not eligible to file a notice of appearance (Form G-28) in application and petition proceedings, and USCIS does not communicate with them in writing regarding application or petition proceedings.¹² Each of these representatives must file a statement or declaration described in greater detail below. The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

These individuals may not engage in the practice of law, but may apply to appear in-person before a DHS official at an interview or other meeting or appointment at a USCIS office in order to support an applicant or petitioner and provide non-legal assistance. However, these guidelines do not preclude any individual (such as a family member, friend, colleague, etc.) from helping an applicant or petitioner with the completion of forms, so long as the assistance does not constitute practice or preparation, as that term is defined in 8 CFR 1.1(k).

(B) Attorneys in the United States

An "attorney" is any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.¹³

- An attorney need not be admitted to practice in the state in which his or her office is located or where the applicant or petitioner resides, and may have an office outside the United States, as long as he or she is an attorney as defined in the regulations.
- USCIS employees must routinely consult the DHS Disciplinary Counsel website for information on how to verify the eligibility of an attorney.
- An attorney must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which he or she seeks to appear. The form must be properly completed and signed by the petitioner or applicant in order for the appearance to be recognized by USCIS.¹⁴

¹² Id.

¹³ 8 CFR 1.1(d) (2011)

¹⁴ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

(C) Attorneys outside the United States

An "attorney outside the United States" is an attorney (other than one who fulfills the requirements of an "attorney" in the United States) "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice."¹⁵

- An attorney outside the United States may only represent applicants or petitioners in matters outside the geographical confines of the United States at a USCIS overseas office. He or she must receive permission to appear from the USCIS official before whom he or she wishes to appear.
- In order to establish eligibility, such an attorney must establish that he or she resides outside the United States in the country in which he or she was admitted to the practice of law, and that he or she is engaged in practice in that country.
- An attorney outside the United States must submit a "Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States" (Form G-281) in each case in which he or she seeks to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁶

(D) Accredited Representatives

An "accredited representative" is a person who represents an organization that has been recognized by the Board of Immigration Appeals (BIA) to practice before the Executive Office for Immigration Review (EOIR), including the immigration courts, the BIA and DHS.¹⁷

- EOIR maintains a list of Recognized Organizations and accredited representatives who have authority to represent individuals before EOIR and DHS at www.justice.gov/eoir/legalrepresentation.htm.
- Accredited representatives must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) in each case in which they seek to appear.
- The form must be properly completed and signed by the petitioner or applicant for the appearance to be recognized by USCIS.¹⁸

(E) Reputable Individuals

A **reputable individual** is an individual of good moral character who appears on an individual case basis at the request of the person entitled to representation. The reputable individual must have a pre-existing relationship with the applicant or petitioner (e.g., relative, neighbor, clergyman, business associate or personal friend), and must

¹⁵ 8 CFR 292.1(a)(6) (2011)

¹⁶ 8 CFR 292.4(a) (2011); Instructions for Form G-281 (04/22/09)

¹⁷ 8 CFR 292.1(a)(4) & 8 CFR 292.2

¹⁸ 8 CFR 292.4(a) (2011); Instructions for Form G-28 (Rev. 04/22/09)N

not receive payment directly or indirectly for his representation.¹⁹ A USCIS official may waive the requirement that a pre-existing relationship exist between the applicant or petitioner and the representative in cases where adequate representation would not otherwise be available.²⁰

- The reputable individual must submit a declaration that states that he or she is appearing without direct or indirect remuneration. (See Sample Declaration in Appendix 12-1).
- The reputable individual must receive permission from the DHS official before whom he or she wishes to appear. In order to determine whether or not to grant the request of a person seeking to appear as a reputable individual, the DHS official should review the declaration presented and ask the individual questions regarding his or her eligibility and record this information in the record of proceedings. Permission will not be granted to any individual who regularly engages in immigration and naturalization practice or preparation or holds himself or herself out to the public as qualified to do so.²¹
- USCIS does not accept Forms G-28 filed by reputable individuals, as they are not included in the limited category of representatives in 8 CFR 103.2(a)(3).²²
- The reputable individual who is granted permission to appear with an applicant or petitioner may appear only in person in that case. The reputable individual will not receive copies of notices or other written communication that USCIS sends to the individual being represented.²³

(F) Law Students and Law School Graduates

Law students who are enrolled in an accredited U.S. law school and law graduates of an accredited U.S. law school not yet admitted to the bar may provide representation, constituting practice and preparation, with the supervision required in 8 CFR 292.1(a)(2).

- Law students and law graduates must seek permission to appear in proceedings before DHS officials.²⁴ The USCIS officer may require that the supervising faculty member, attorney, or accredited representative appear with the law student or law graduate.²⁵
- A law student enrolled in an accredited U.S. law school must file a statement that states that, he or she is participating under the direct supervision of a faculty member, licensed attorney, or accredited representative, in a legal aid program or

¹⁹ 8 CFR 292.1(a)(3) (2011)

²⁰ 8 CFR 292.1(a)(3)(iii) (2011)

²¹ 8 CFR 292.1(a)(3)(iv) (2011)

²² 8 CFR 103.2(a)(3); 292.1(a); 292.4(a) (2011) ; Instructions for Form G-28 (Rev. 04/22/09)N

²³ 8 CFR 103.2(a)(3) and 292.5(a) (2011).

²⁴ 8 CFR 292.1(a)(2)(iv) (2011)

²⁵ 8 CFR 292.1(a)(2) (2011)

- clinic conducted by a law school or non-profit organization, and is appearing without direct or indirect remuneration from the individual he or she represents.²⁶
- A law school graduate of an accredited U.S. law school who is not yet admitted to the bar must file a statement that states that he or she is appearing under the supervision of an attorney or accredited representative, and is appearing without direct or indirect remuneration from the applicant or petitioner.²⁷
 - The supervising attorney or accredited representative of a law student or law graduate must submit a "Notice of Entry of Appearance as Attorney or Accredited Representative" (Form G-28) on which the law student or law graduate provides his or her name and signature.²⁸ All notices and communication to the applicant/petitioner's representative in such cases should be addressed to the supervising attorney or accredited representative listed on the G-28 (not the law student or law graduate).
 - If the USCIS officer observes an action by a law student or graduate that provides good cause for the officer to believe that the representation by the law student or graduate will impair the efficient conduct of the proceeding, the USCIS officer may alert a USCIS supervisor who may contact the supervising faculty member, attorney, or accredited representative.

(G) Accredited Officials

Although it is rare, an accredited official of the alien's home government (e.g., a consular officer) may represent an alien if the official is in the United States and appears solely in his official capacity and with the applicant or petitioner's consent.²⁹

- In exercising discretion to allow an accredited official to appear before DHS, DHS officials should ensure that the individual does not regularly engage in immigration practice or preparation or hold himself out to the public as qualified to do so. To properly document this exercise of discretion, DHS officials should request such individuals submit a written statement in support of their appearance, addressing the relevant factors. (See Sample Statement in Appendix 12-1.)
- DHS does not send notices or other written communications to accredited officials.

12.2 Notice of Entry of Appearance

(A) Filing a Notice of Entry

Attorneys, attorneys outside the United States, and accredited representatives must establish their eligibility to appear on the form designated by DHS in each case.³⁰

²⁶ 8 CFR 292.1(a)(2) (2011)

²⁷ 8 CFR 292.1(a)(2) (2011)

²⁸ 8 CFR 292.1(a)(2) (2011); Instructions to Form G-28. (Submitted to OMB on Oct. XX, 2011 for 60 day notice)

²⁹ 8 CFR 292.1(a)(5) (2011)

³⁰ 8 CFR 292.4(a) (2011)

- Attorneys and accredited representatives must submit a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.
- Attorneys outside the United States must submit a Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States.
- The Form G-28 and Form G-28I must be properly completed and signed by the applicant or petitioner in order for the appearance to be recognized by USCIS. Once the Form G-28 or Form G-28I is accepted, the appearance will be recognized until the conclusion of the matter for which it was entered.
- When filing an appeal with the Administrative Appeals Office on Form I-290B, the attorney or accredited representative must file a new Form G-28.
- Other representatives (law students and law graduates, reputable individuals, and accredited officials) may not submit Form G-28 or Form G-28I and may only appear after filing a statement in which they provide specific information listed in the regulations.³¹ The appearance of these other representatives is subject to the approval of the USCIS official before whom they seek to appear.³²

USCIS officers may verify an attorney's or accredited representative's eligibility and require further proof of authority to act in a representative capacity. Officers should seek more information at the DHS Disciplinary Counsel website and at www.justice.gov/eoir/legalrepresentation.htm. Officers should also reference the list of disciplined practitioners at <http://www.justice.gov/eoir/discipline.htm>, which includes attorneys and accredited representatives who are currently expelled or suspended from practice before DHS and EOIR. USCIS officers should be aware of individuals who have falsely claimed to be attorneys or accredited representatives when they are not and individuals who have been the subject of federal state or local court action to stop their unauthorized practice of law or theft of fees for legal services they may not lawfully provide. USCIS is not to communicate with such individuals, even if they submit a "Notice of Entry of Appearance as Attorney or Representative" (Form G-28) in a case.

(B) Substitution or Withdrawal of Representation

It is not uncommon for applicants or petitioners to wish to change representatives or elect to forgo representation during the course of a proceeding. Substitution or withdrawal of an attorney or accredited representative may be made upon the written withdrawal of the attorney or accredited representative of record or upon notification of the new attorney or accredited representative.³³ An applicant or petitioner may elect to proceed without his or her representative, but must submit a written statement to the USCIS official that he or she has voluntarily chosen to proceed without representation.

³¹ 8 CFR 292.1(a)(2), (3) and (5) (2011).

³² See fn. 28.

³³ 8 CFR 292.4 (2011)

12.3 Proper Service of Documents & Notices

Once an attorney (whether in or outside the United States) or accredited representative has filed a properly completed Form G-28 or Form G-28I on behalf of an applicant or petitioner, USCIS is required to serve documents and notices on the attorney or accredited representative.³⁴ Original notices and documents evidencing lawful status in the United States based on the approval of a benefit request will be sent to the attorney or accredited representative whom the applicant or petitioner has authorized to receive such notices and documents on his or her behalf. In such instances, a copy of the benefit notice will also be sent to the applicant or petitioner. **EXCEPTION:** Secure identification documents such as Form I-551, Permanent Resident Card or Form I-766, Employment Authorization Document, can only be sent to the applicant.³⁵

In all other instances (e.g., where the applicant or petitioner is not represented), original benefit notices and documents evidencing lawful status that are issued based on the approval of a benefit request will be sent directly to the applicant or petitioner.

In matters where the Form G-28 or Form G-28I is not accepted because the individual is not an eligible representative or because the form is not properly signed, the application or petition will be processed as if the applicant or petitioner is unrepresented.³⁶ The receipt notice and any other notices will be sent only to the applicant or petitioner.

12.4 Interviews

When an examination is to be conducted in immigration proceedings, the person involved has the right to be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR 292.1(a). The role of the representative at an interview is to ensure that the rights of the individuals he or she represents are protected.

Only an attorney, an attorney outside the United States, an accredited representative, or a law student or law graduate appearing with proper supervision and with the permission of a DHS official may provide legal advice to an applicant, petitioner, or witness.³⁷ USCIS may allow other eligible representatives (including reputable individuals, law students, and law school graduates), who have obtained the consent of the applicant, petitioner, beneficiary or other witness, to appear at interviews with the individual. These individuals must seek permission from the presiding DHS official to appear at the interview. Other categories of representatives may provide non-legal assistance and support that does not constitute practice or preparation, as defined in 8 CFR 1.1.

³⁴ 8 CFR 292.5 (2011).

³⁵ 8 CFR 103.2(b)(19).

³⁶ 8 CFR 103.2(a)(3) (2011)

³⁷ 8 CFR 1.1(i), (j) and (k).

When conducting an interview of a petitioner and beneficiary simultaneously, attorneys or eligible representatives of both the petitioner and beneficiary will be permitted to appear at the interview.³⁸ In visa petition proceedings, representatives who have obtained the consent of the petitioner should be recognized in interviews with the petitioner. Representatives who have obtained the consent of the beneficiary should be recognized in interviews with the beneficiary. Any individual appearing in a representative capacity may not respond to questions the interviewing officer has directed to the applicant, petitioner, or witness, except to ask clarifying questions.

An attorney or representative of an applicant or petitioner may not simultaneously serve as his or her client's interpreter during an interview.³⁹ If, after being so advised, the attorney or other representative continues to interpret for the applicant or petitioner or otherwise disrupts the interview, USCIS may terminate the interview and advise the parties that the interview cannot be completed under these circumstances and that USCIS will proceed to make a decision based on the record of proceedings.

12.5 Conduct of Attorneys and Representatives

DHS has rules of professional conduct for practitioners who practice before the Department's immigration agencies.⁴⁰ Under the rules, practitioners (attorneys, accredited representatives and other categories of representatives permitted to appear by DHS) are subject to discipline for criminal, unethical, or unprofessional conduct. Complaints of professional misconduct by practitioners should be reported to the DHS Disciplinary Counsel. USCIS officers should visit the [Disciplinary Counsel website](#) for more information on professional conduct, reporting misconduct, and how to verify the eligibility of an attorney or accredited representative.

Officers should not engage in personal conversations or arguments with attorneys or other representatives during the course of an interview. If a discussion becomes argumentative, the officer should seek assistance from a supervisor. The attorney or representative may raise an objection on an inappropriate line of questioning and, as a last resort, may request supervisory review without terminating the interview. Where necessary, disagreements between USCIS officers and attorneys or other representatives regarding the appropriate role of the attorney or other representative in USCIS interviews, should be elevated to the Field Office Director. USCIS employees may not file complaints directly to state bar disciplinary authorities. Complaints of unethical and unprofessional conduct by attorneys or other representatives should be reported to [DHS Disciplinary Counsel](#) through appropriate supervisory channels.

³⁸ 8 CFR 103.2(a)(3) (2011)

³⁹ Exceptions may be made if the interests of the Government will not be prejudiced.

⁴⁰ 8 CFR 292.3 (2011)

- 3. Add Appendix 12-1 to the Table of Contents for Appendices.

Appendix 12-1 Sample Statements and Declarations

- 4. Appendix 12-1 is added as follows:

Interim Memo

Appendix 12-1 Sample Statements and Declarations

**SAMPLE STATEMENT OF LAW STUDENT REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a law student enrolled in Anystate Law School, an accredited U.S. law school.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am participating under the direct supervision of Sam Samuels, a faculty member, Susan Williams, a licensed attorney, or Joe Johnson, a BIA accredited representative in a legal aid program or clinic conducted by a law school or non-profit organization.

I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF A LAW GRADUATE REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a graduate of Anystate Law School, an accredited U.S. law school, who is not yet admitted to the bar.

I received my law degree on June 1, 2011 and will take the bar examination on February 21, 2012; or, sat for the bar examination on July 24, 2011 and have not yet received my results.

I am appearing at the request of Jane Doe, a person entitled to representation.

I am appearing under the supervision of Susan Williams, a licensed attorney, or Joe Johnson, an accredited representative. I am appearing without direct or indirect remuneration from the individual I seek to represent.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE DECLARATION OF A REPUTABLE INDIVIDUAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as a reputable individual of good moral character, as defined in 8 CFR 292.1(3).

I am appearing on an individual case basis at the request of Jane Doe, a person entitled to representation. I am appearing without direct or indirect remuneration. I have a pre-existing relationship with Jane Doe as a relative, neighbor, clergyman, business associate, and/or personal friend.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I declare, under penalty of perjury under the laws of the United States of America, that this statement is all true and correct.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

**SAMPLE STATEMENT OF AN ACCREDITED OFFICIAL REQUESTING
PERMISSION TO APPEAR BEFORE A USCIS OFFICIAL**

I, John Smith, seek permission to appear before Mary Jones, a USCIS official, on behalf of Jane Doe, a person entitled to representation, as an accredited official of the Nowhereland government to which Jane Doe owes allegiance.

I am not regularly engaged in immigration and naturalization practice or preparation, nor do I hold myself out to the public as qualified to do so.

I am appearing with the consent of Jane Doe, a person entitled to representation.

John Smith

January 1, 2012

Signature

Date

I, Mary Jones, the USCIS official before whom John Smith seeks to appear as a representative, in the exercise of discretion GRANT the request.

Mary Jones

January 1, 2012

Signature

Date

The original of this document is to be maintained by the USCIS official in charge of the office in which the request was made, with a copy filed in the record of proceeding.

5. Revise Chapter 15.1(b)(2) to read:

15.1 Interview Policies

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews. **[Revised 11-23-2005]**

(2) Evaluating Requests for the Rescheduling of Interviews (See 8 CFR 103.2(b)(9))

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in *AFM Chapter 15.1(d)(2)*.

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time, because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative the USCIS official should obtain a written statement from the individual. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The

officer may still consider statements and submissions by the individual's attorney or other representative in his or her absence.

6. Revise Chapter 15.2 to read:

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for adjustment, naturalization, marriage fraud and conditional resident removal interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and applicant, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless the physical layout of the interview space cannot accommodate it. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area

should be reasonably proximate to the interview area to minimize lost time between interviews.

7. Revise Chapter 15.3 to read:

15.3 Officer Conduct and Appearance

(a) Appearance

It is imperative that the officer conducting the interview dress in a professional manner. Both males and females should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being questioned.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.
- Maintain professional conduct even if the interviewee becomes abusive or if derogatory information is developed. If necessary, contact a supervisor.
- Be fair, courteous, and patient without diminishing in any degree full and complete development of the material facts, whether they be favorable or adverse to the person being interviewed or any other person.

- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.
- Ensure that your demeanor is unprejudiced, impartial, and creates no foundation for complaints that you have been unfair or have used any mistreatment or duress.

8. Revise Chapter 15.4 to read:

15.4 Interview Procedures

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

(b) Preparing for the Interview

- The successful interview process begins when USCIS issues a call-in notice. In addition to accurately explaining the purpose of the interview, the notice should instruct the attorney (or in an unrepresented case, the interviewee(s)) on what to bring to the interview. In all cases, the notice should at least instruct the attorney / interviewee(s) to bring the originals of all documents previously submitted as photocopies.
- Do not commence an interview, even though time may be limited, until you have reviewed the application or petition and relating material, including submissions made by the applicant or the applicant's attorney or representative. Depending upon the case, this may range from a rapid scanning of the file to an intensive study of all available material. However, it is essential that the review of the material be made before commencing the questioning in order for the adjudicator to have the requisite knowledge and understanding of all the facts and circumstances involved in the case. Otherwise, the questioning may not cover all pertinent points. The review should be sufficiently thorough to enable the adjudicator to cover all issues necessary for an adjudication, thereby avoiding

any need for recalling the applicant, petitioner, or witness for further questioning on an issue which could have been covered during the initial interview. Review of the applicable provisions of the law and precedent decisions also should be made, if necessary, to ensure thorough familiarity with any legal issue that may be developed by questioning. In addition, when possible the adjudicator should review submissions made at the time of an interview that may assist in resolving legal issues. The more complete the preliminary preparation of the case prior to beginning the interview, the better equipped you will be to conduct an efficient interview, without time-wasting repetition or needless questions.

- If complex issues are involved, prepare an outline of the logical sequence of questioning to be followed, the information to be developed, and the evidence to be utilized. Such outlines are most conducive to eliciting all essential facts. Additionally, it may be advisable to select certain material from the file or relating files and arrange such material in the sequence of the plan of questioning. The extent of necessary preliminary preparation depends upon the issues involved in the individual case.

(c) At the Interview

- Greet the interviewee in a polite, dignified manner to put him or her at ease.
- Identify yourself, giving your name and title.
- Begin the interview with an explanation in non-technical terms of the purpose of the interview.
- Obtain identification from all parties to the interview, including interpreters, attorneys, and/or other representatives, unless identity has been previously established.
- Administer the following oath: "Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?"
- The oath or affirmation should always be administered in such a manner as to impress upon the person being interviewed the solemnity of the occasion and the importance of the testimony that he is about to give. The adjudicator and the person(s) to be sworn or affirmed should stand and raise their right hands during the administration of the oath or affirmation. The fact that the interview is being conducted under oath or affirmation should be noted in the transcript or in the file. If a verbatim question and answer statement is taken, the exact wording of the oath or affirmation should be included in the transcript. If such statement is not taken, the memorandum record of the interview should show that the person was under oath or affirmation.
- An applicant or the applicant's attorney or representative should be permitted to present documents or other evidence that may help to clarify an issue of concern to the interviewer. When possible, such evidence should be submitted and reviewed before the interview, and when relevant, should be added to the applicant's file.

- In certain other types of cases where more than one individual is to be questioned, it is generally best to question each party separately, asking each party several of the same questions in order to identify inconsistent answers. It may be necessary to recall either party for further questioning if contradictory answers are provided. In other types of interviews, an entire family group may be interviewed collectively.
- In a case where there is reason to believe that a witness under oath has given or may give false testimony, it may be advisable to inform the subject that willfully giving false testimony on a material matter under oath constitutes the crime of perjury, and that a person convicted of perjury is subject to a penalty of a fine, imprisonment or both. (However, see the comment below about challenging every false statement immediately.)
- Should the interviewing officer be required to leave the office for any reason during the interview, the relating file(s) should be removed to avoid unauthorized review during the officer's absence.

(d) Questioning Techniques

- All questions are either "closed-ended" or "open-ended."
 - Closed-ended questions call for specific, factual and usually brief responses (e.g., "Have you ever been arrested?").
 - Open-ended questions solicit views, opinions, thoughts and feelings and generally call for longer, narrative-type responses (e.g., "Tell me about any arrest you have had."). Open-ended questions are normally more useful in assessing an individual's credibility and for eliciting statements which may later be supported or contradicted.
 - Leading questions, which assume a controversial fact or suggest the answer, should be avoided except to expedite obtaining preliminary identifying material. For example, the leading question "You have never been arrested?" anticipates and assumes the subject's answer.
- Persons being questioned should be permitted to give a full explanation of any issue involved in the case. Fairness requires consideration of all relevant evidence. In some instances, detailed questioning may be desirable in order to make it more difficult for the subject to disavow his statements at a later time or to fabricate a new story. In this connection, however, remember that an adjudicator is duty-bound to develop the facts, favorable as well as unfavorable, with equal fairness to the subject and to the interests of the Government.

(e) Concluding or Terminating an Interview

An adjudicator should not unnecessarily prolong an interview, but should conclude it when all necessary information has been elicited. The subject(s) should be thanked for cooperating and providing information.

On some occasions it may be necessary to terminate an interview even though all essential information has not been elicited; however, termination should be avoided whenever possible. Termination may be necessary in the following situations, which are not intended to be exclusive:

- The interviewee is unable to communicate without an interpreter and one is not available.
- An interpreter clearly has difficulty in translating effectively.
- The officer has reasonable doubts about either the ability or impartiality of an interpreter supplied by the interviewee, and a USCIS or DHS interpreter is not immediately available.
- An attorney or other representative of an applicant or petitioner insists on responding to questions or coaching the person being interviewed.
- An attorney or other representative of an applicant or petitioner insists on interpreting for his or her client during an interview.
- The subject refuses to respond to questions essential to the successful completion of the interview.

The interviewing officer should explain the reason(s) for the termination. When appropriate, the interview should be rescheduled and (if needed) arrangements made for a competent interpreter. If the subject(s) or representative insists on continuing, a supervisor should be informed of the reason for the termination. It is the responsibility of the supervisor to determine if termination is warranted and to deal with the subject(s) and/or representative if they refuse to accept an unfavorable determination.

(f) After the Interview

- An alien, or attorney or accredited representative with a properly executed Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28), may request a personal review and/or copy of the record of proceedings, including any written record of an interview conducted before a USCIS officer. The requesting party may file a Freedom of Information/Privacy Act Request (Form G-639) with USCIS to gain access to other record material.

[See also Appendix 15-2, Techniques for Interviewing and Preparing Sworn Statements.]

9. The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD11-42 12/21/2011	<ul style="list-style-type: none">• Chapter 12• Appendix 12-1• Chapter 15.1(b)(2)• Chapter 15.2• Chapter 15.3• Chapter 15.4	This PM amends the <i>AFM</i> to include a revised Chapter 12, Private Attorneys and Other Representatives; new Appendix 12-1, Sample Affidavits; and revisions to Chapter 15.1(b)(2), Chapter 15.2, Chapter 15.3, and Chapter 15.4.
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Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to your Directorate.

**Deliberative Product – Attorney/Client Privilege – FOUO
Contact with Represented Parties During USCIS Site Visits**

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Chief Counsel
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

(b)(5) (b)(7)(e)

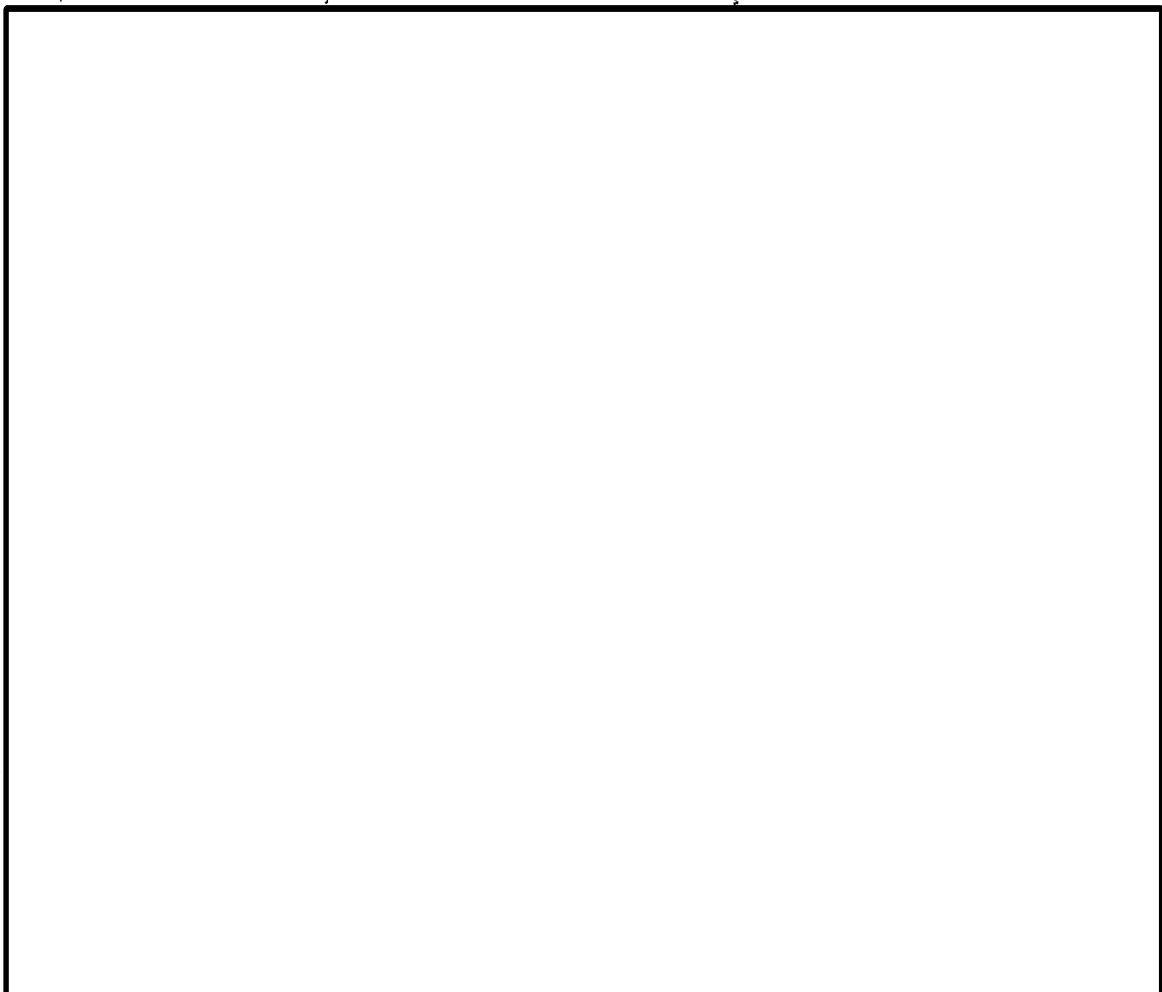
Oct. 25, 2012

Memorandum

TO: USCIS Component Heads

FROM: Stephen H. Legomsky, Chief Counsel

SUBJECT: Contact with Represented Parties During USCIS Site Visits



(b)(5)

(b)(7)(e)

(b)(5)

(b)(7)(e)

Enis, Jill S

From: Enis, Jill S
Sent: Tuesday, June 05, 2012 9:37 AM
To: Garcia, Oscar R; Valencia-Garcia, Ivonny; Harry, Bridget A
Subject: Attorney memo

#2 below is the memo Tracy was referencing regarding the attorney's in today's meeting.

The May 23 memo.

Please make sure you go over this with your staff.

Thanks,

Jill

From: Tarango, Tracy
Sent: Friday, May 25, 2012 11:29 AM
To: Enis, Jill S; Nash, Randall E; Ahumada, Crystal; Dobbins, Priscilla M; Perez, Doreen; McElrath, Lisa; Harry, Bridget A; Ratcliff, Dora T; Valencia-Garcia, Ivonny; Garcia, Oscar; Hanvey, Gladys; Orr, Eva W; Sheive, Kristy A
Subject: FW: USCIS Leadership Guidance #41-12

Tracy Tarango
Field Office Director
U.S. Citizenship and Immigration Services
Dallas Field Office
972-582-5789
tracy.tarango@dhs.gov
www.uscis.gov

From: INTERNAL COMMUNICATIONS, USCIS
Sent: Friday, May 25, 2012 11:27 AM
Subject: USCIS Leadership Guidance #41-12



Leadership Guidance

May 25, 2012
#41-12

1. USCIS and the Smithsonian Institution launch *Preparing for the Oath*
2. Two Final Policy Memoranda:
 - PM-602-0043.1 (May 14, 2012) Process for Responding to Requests by the Department of State (DOS) To Accept a Locally Filed Form I-130, Petition for Alien Relative
 - PM-602-0055.1 (May 23, 2012) Representation and Appearances and Interview Techniques; Revisions to *Adjudicator's Field Manual (AFM)* Chapters 12 and 15; *AFM* Update AD11-42

1. USCIS and the Smithsonian Institution launch *Preparing for the Oath*

USCIS released yesterday *Preparing for the Oath: U.S. History and Civics for Citizenship*, a Web-based learning tool designed to help immigrants prepare for the civics portion of the naturalization test.

The USCIS Office of Citizenship partnered with the Smithsonian Institution's National Museum of American History (NMAH) to develop this self-study tool, which is based on the 100 civics questions and answers from the naturalization test. *Preparing for the Oath* is organized into themes related to U.S. history, government and civics, and features:

- Short videos and self-tests on the content of each civics question
- Interactive learning activities, including object explorations of Smithsonian artifacts
- A "Test Yourself" section, which provides users with a randomly generated list of ten questions
- A "Teachers" section, which provides materials and strategies to use *Preparing for the Oath* in a classroom setting

Preparing for the Oath is a valuable addition to the citizenship preparation materials USCIS offers to aspiring citizens. Encourage your staff to explore *Preparing for the Oath* and share the link with colleagues and customers. Users will also be able to access *Preparing for the Oath* on the Citizenship Resource Center under Study Materials for the Civics Test.

2. Final Policy Memoranda

USCIS has cleared the following final policy memoranda for distribution:

- **PM-602-0043.1 (May 14, 2012)** Process for Responding to Requests by the Department of State (DOS) To Accept a Locally Filed Form I-130, Petition for Alien Relative
- **PM-602-0055.1 (May 23, 2012)** Representation and Appearances and Interview Techniques; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42

Draft and interim policy memos will be posted on www.uscis.gov/outreach for stakeholder review and comment. Interim and final policy memos are official USCIS policy documents and effective the date the memos are approved.

Visit the Feedback Opportunities Web page on Connect for additional information.

The USCIS Leadership Guidance is a product of the USCIS Office of Communications. To submit questions or cleared items, or to access previous Leadership Guidance, email USCIS Internal Communications.

Greenwood, Tembora A

From: Levine, Laurence D
Sent: Friday, March 22, 2013 7:23 AM
To: Dawkins, Laura; Manoogian, Margaret; Hamilton, Cristina; Turner, Nakia P; Harrison, Julia L
Cc: Chang, Pearl B
Subject: Draft minutes from yesterday's SPC meeting
Attachments: SPC meeting notes 3-21-13.docx

Importance: High

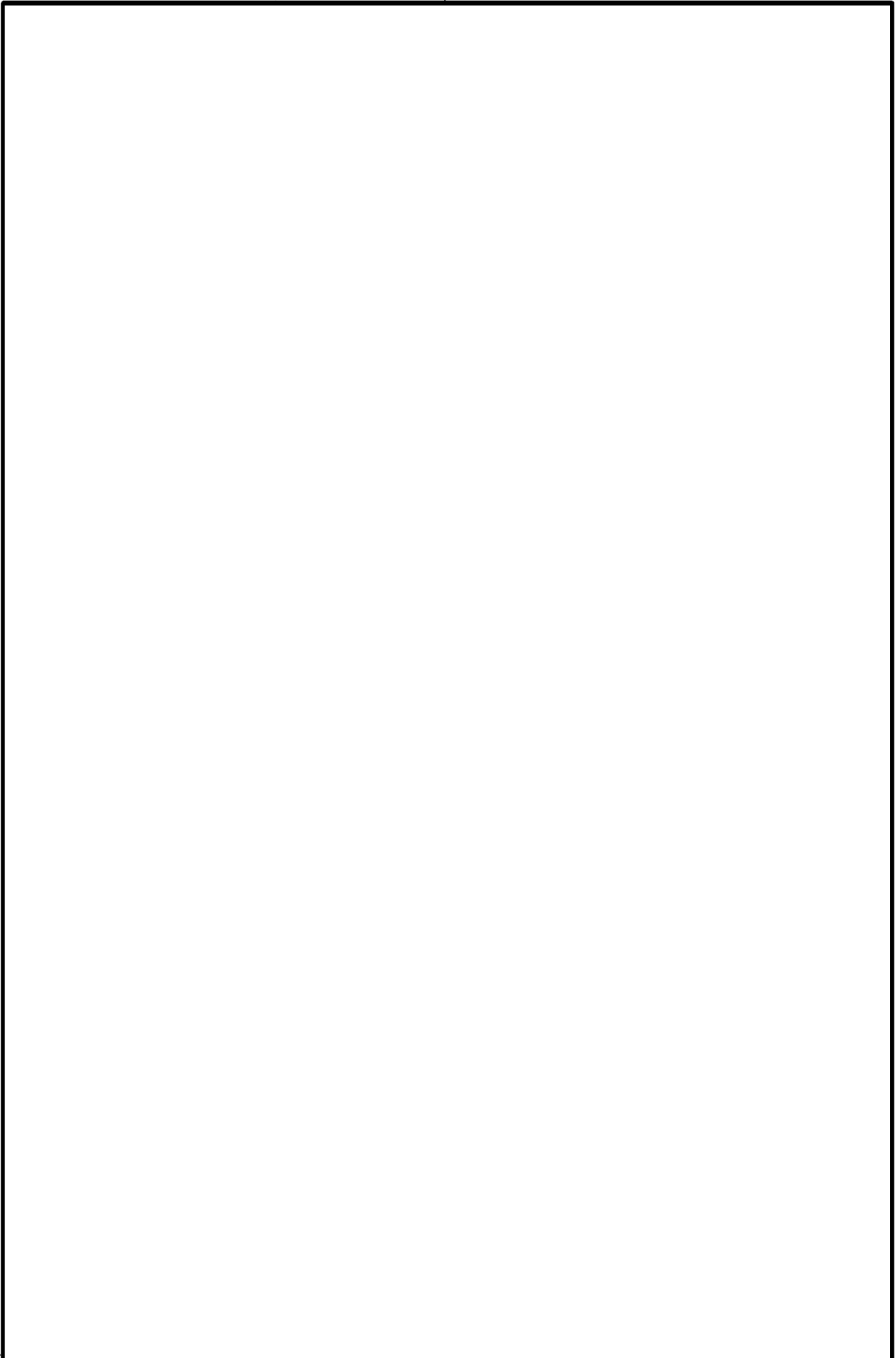
Good morning, all. Yesterday's SPC resulted in a lot of decisions, so the minutes are unusually lengthy. Can you please review the attached and get something back to me by Tuesday, March 26 so I can send them to Denise and Pearl to approve before distributing. Please send any edits and comments to everyone on this email chain.

Thanks very much,
Larry

Larry Levine
Senior Advisor to the Chief
Office of Policy & Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
(202) 272-1469

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March 21, 2013 Senior Policy Council Meeting Summary and Decisions



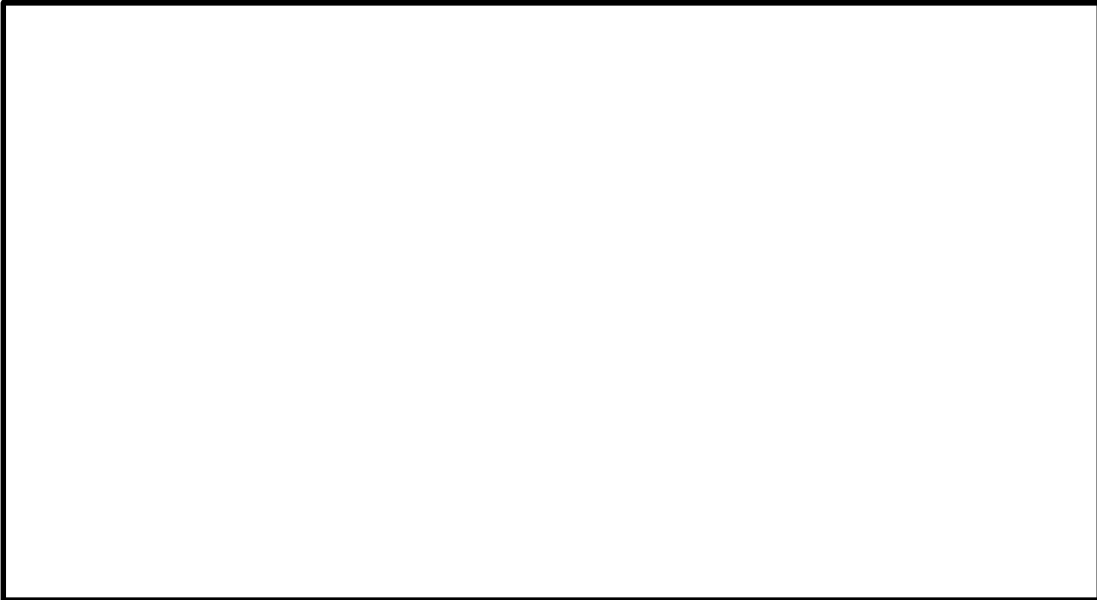
Out-of-Scope

Out-of-Scope



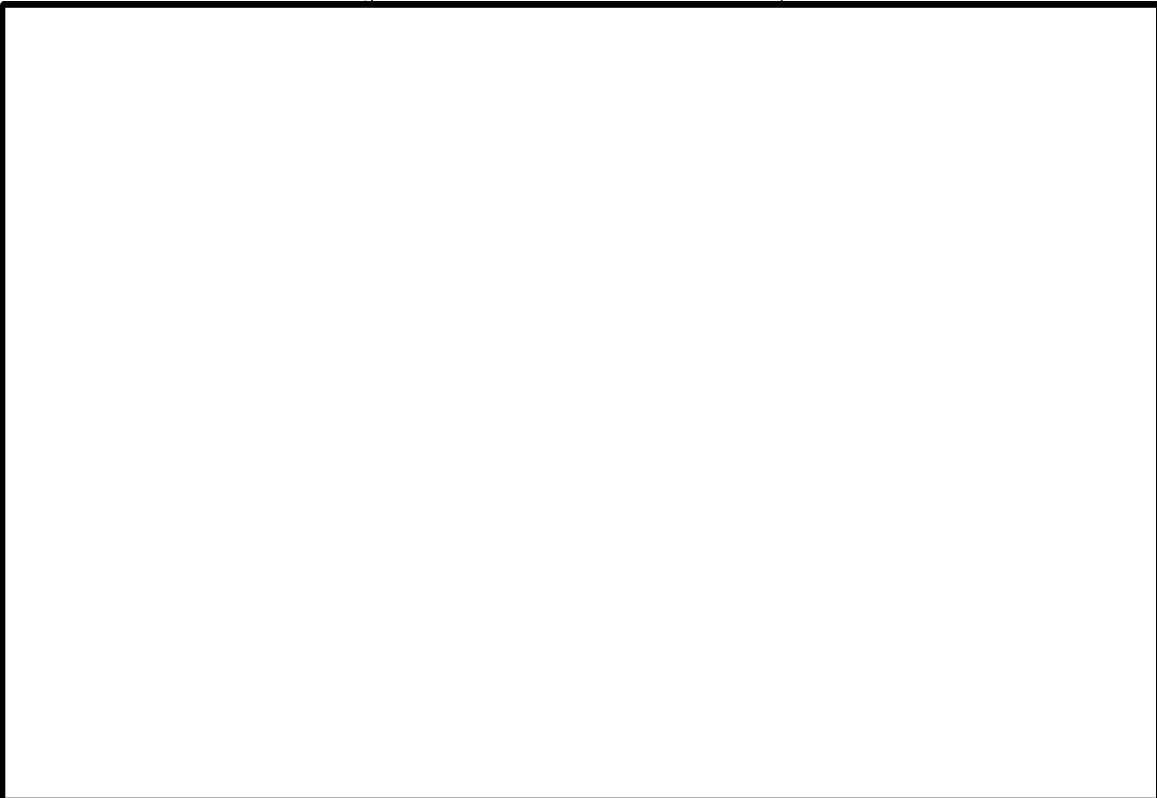
UPDATE: Results of Public Engagement on Interpreter Guidance

Out-of-Scope



It also decided that attorneys and representatives could serve as interpreters if they are not acting in their capacity as attorneys or representatives at the same time.

Out-of-Scope



Deliberative – Do Not Disclose

(b)(7)(c)

Greenwood, Tembra A

From:

[Redacted]

Sent:

Thursday, February 16, 2012 3:48 PM

To:

[Redacted]

Cc:

Subject:

DRAFT CR SOP: Compliance Review Report Template and Instruction Sheets



DRAFT CR
SOP-Compliance ...

Good afternoon all,

As mentioned on this morning's call, please see the attachment above for the Compliance Review Report instruction sheets and CRR template from the draft version of the Compliance Review SOP. The document is a bit lengthy, as it is 20 pages, but contains step by step instructions on how to answer each CRR question (based on the type of site inspection being conducted).

These instruction sheets should be used by all GSIs and IO(2)s when writing the narratives for their ASVVP CRRs. This will ensure that the CFDOs have sufficient information to make a 'Verified' or 'Not Verified' determination, regardless of whether or not the site inspection appears 'Verified' on its face.

Thanks for your assistance, as always.

Please let us know if there are any questions or comments.

[Redacted]

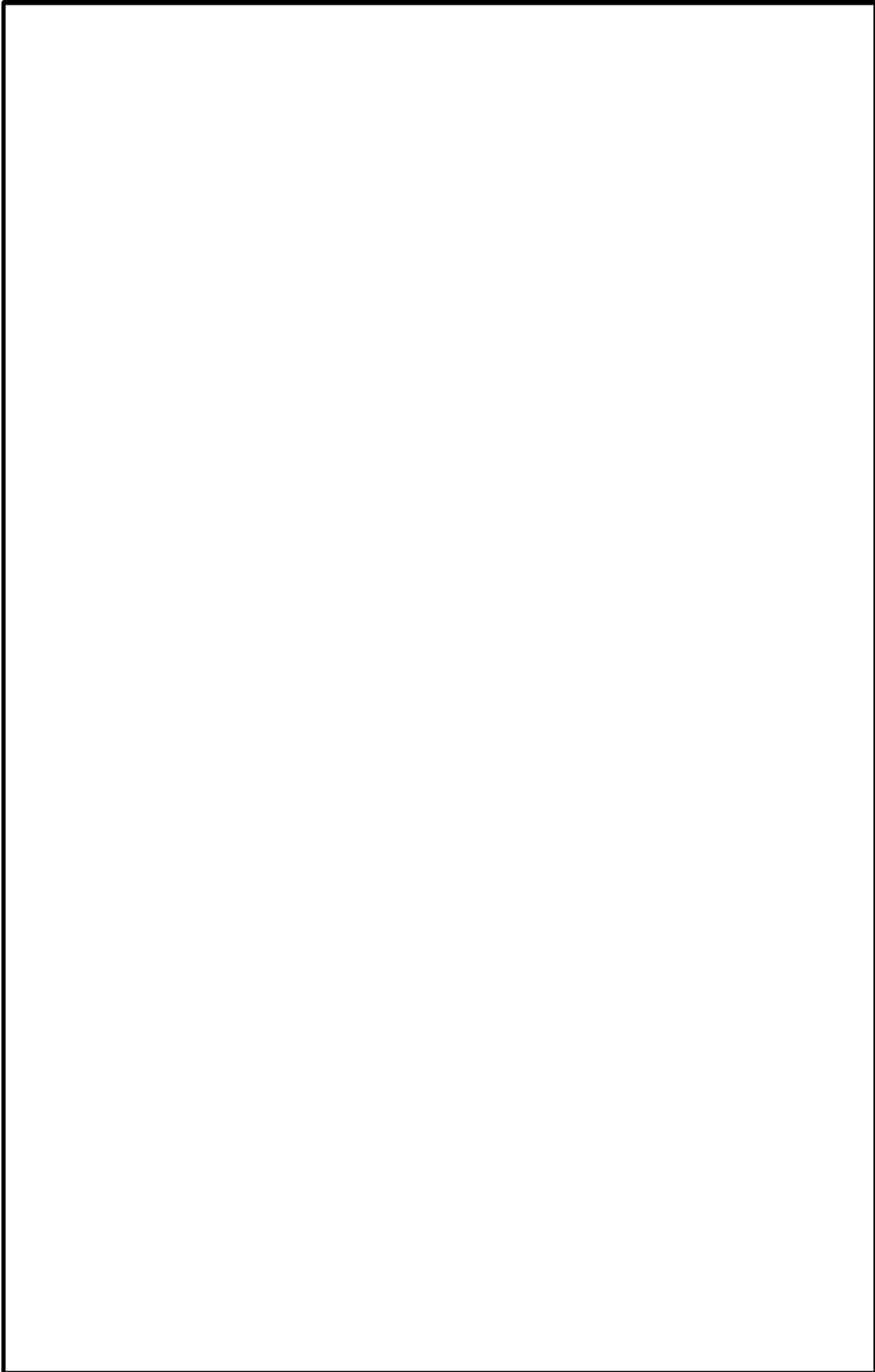
[Redacted]

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February 16, 2012

Appendix B Instruction Sheets

Religious Worker Based Compliance Reviews



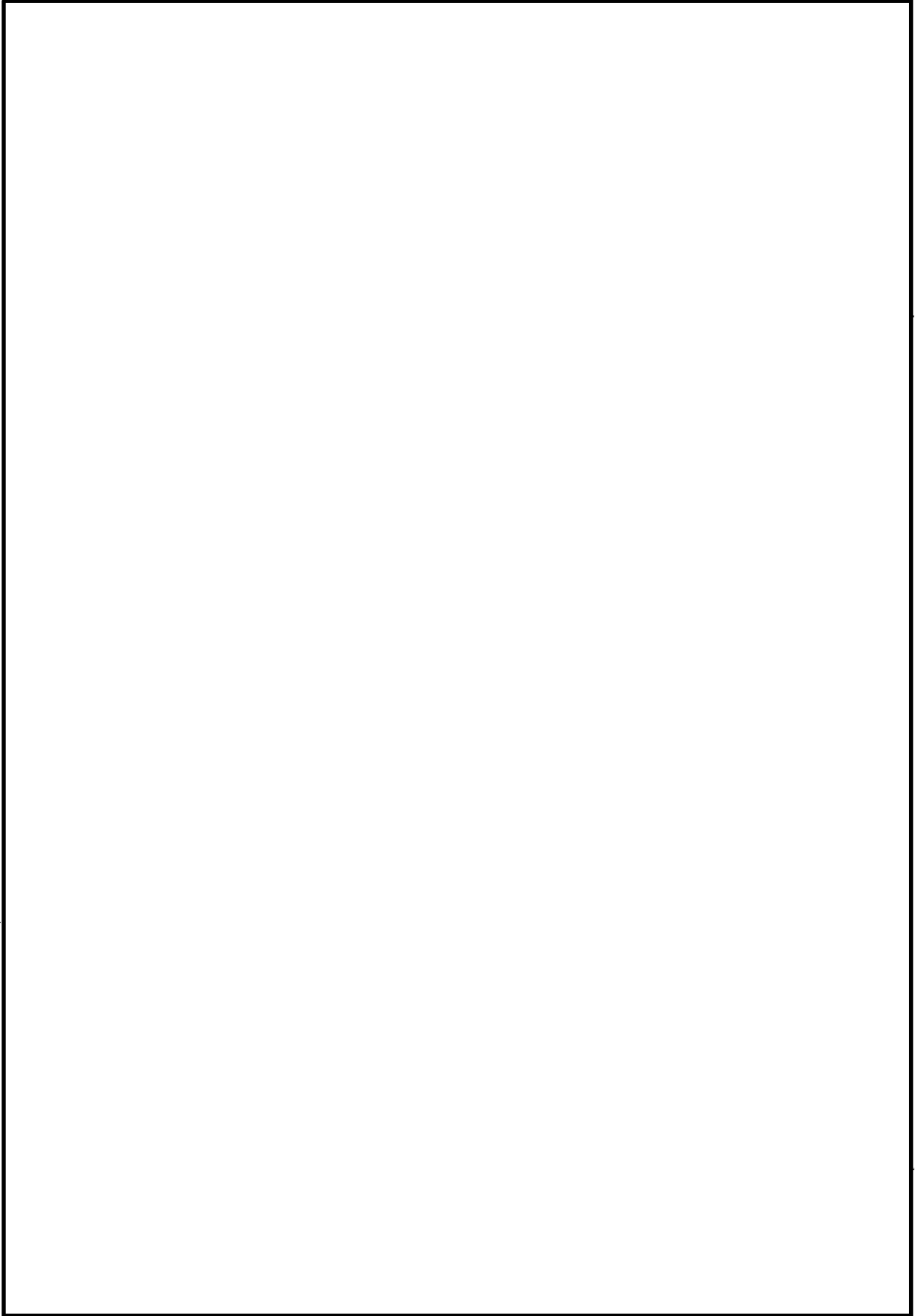
(b)(5)

(b)(7)(e)

(b)(5)

H-1B Based Compliance Reviews

(b)(7)(e)



Lambrech, Andrew M

From: Lindauer, Dana J
Sent: Friday, September 14, 2012 10:34 AM
To: Aleman, Christina C; Brown, Tiffany L; Caruth, Cheri; Donovan, Patrick J; Duplissis, Diane; Laurent, Claudia M; Nichols, Jennifer E; Pennie, Richard; Perry, Angela M; Quinones, Diana; Sondag, Christine; Teale, Charla L; Vasek, Amber R; Williams, Benjamin D; Winfield, William H; Wise, Grant R; Rosenthal, Julie M; Phillips, Christopher M; Chavez, Orestes; Herrman, Ryan M; Mendez, Christopher M
Cc: Lambrecht, Andrew M; Moon, Candace M; McKeon, Richard B; Koenigsberg, Scott L; Koenigsberg, Barbara J; Anderson, Reba D; Soto, Patricia C (CTR); Husk, Sandra K; Kelly, Joan C
Subject: Minutes from August 28 staff meeting

All,

Here are the minutes from the August 28 staff meeting:

Out-of-Scope



I-485:

released information on the anticipated change in their processing of cases for the field. NBC is calling these changes "Lean & Lite". The N-400 pre-processing will not change. There will be some changes to the I-485 pre-processing.

When you are interviewing, if there is no notice put up on the board by the guards you still need to call out the name of the applicant in case the notice did not make it to the board.

Also, when interviewing please have any music turned off.

When combining T and A files you will need to keep both the T and A file in the same NFTS code until Records has notified you by email that the combination is completed.

When consolidating A files you can physically combine the files together into one A file before you send both A files down to Records to complete the consolidation in NFTS.

When you have an interview and the applicant is represented by an attorney you cannot call them in early if the attorney is not present. If the attorney is still not present at the scheduled time of the interview you may ask them if the attorney is coming to the interview. If the attorney is not coming to the interview, you may proceed with the interview. If the attorney is coming to the interview you will need to wait until the attorney shows up. If the attorney then fails to show you may ask the applicant if they want to reschedule or if they wish to proceed without their attorney.

The white boxes in the file room next to the mail wire basket are only for granted I-485 cases going to the NRC. Please do not put any other cases in the boxes.

When you are changing toner cartridges the used toner cartridge needs to be put in the box that the new one came in. Then attach the mailing label to the box. Then take the box to Records and place it in the outgoing mailbox located in the first room on the left in Records. Records will tape up the box and then mail it.

We will be receiving new CPUs on September 28th. Quentin is in charge of the change. The new computers will work much faster.

Mr. Dana Lindauer
Supervisory Immigration Services Officer
Denver Field Office, USCIS
Ph. (720) 852-6802
FAX (720) 852-6838

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