

## INTERIM MEMO FOR COMMENT

Posted: 06-07-2016

Comment period ends: 07-01-2016

This memo constitutes agency policy effective June 21, 2016.

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

PM-602-0134

## Policy Memorandum

SUBJECT: Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services

### Purpose

This policy memorandum (PM) provides the current U.S. Citizenship and Immigration Services (USCIS) policy regarding the signature requirement for applications, petitions, requests, and other documents that require a signature prior to filing with USCIS. This PM does not address electronic signatures for any document filed in USCIS Electronic Immigration System (ELIS) or otherwise electronically filed (E-filed) with USCIS. USCIS will address the requirements for electronic signatures in future guidance.

### Scope

Unless specifically exempted herein, this PM applies to and is binding on all USCIS operations.

### Authority

8 CFR § 103.2(a)(2)

*Signature.* An applicant or petitioner must sign his or her benefit request. However, a parent or legal guardian may sign for a person who is less than 14 years old. A legal guardian may sign for a mentally incompetent person. By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct. Unless otherwise specified in this chapter, an acceptable signature on [a] benefit request that is being filed with the USCIS is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format.

### Background

This PM clarifies USCIS signature policy and standardizes its implementation. USCIS may incorporate applicable signature requirements for specific immigration benefits and requests for USCIS action into each form and its accompanying instructions when the forms are updated for

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USCIS currently has no formal written guidance on the meaning of the regulatory requirements with respect to acceptable signatures on behalf of individuals, corporations, and other legal entities, including acceptance of petitions to be signed by attorneys on behalf of petitioners or signed by an authorized agent.<sup>1</sup> In this memorandum, USCIS is prescribing a uniform signature policy and mechanism to ensure that: (1) filings are treated consistently by adjudicators across the country and in a manner that complies with the applicable regulation; (2) the integrity of the U.S. immigration system is maintained; (3) the actual identity of the applicant or petitioner is verified; and (4) applicants and petitioners are legally accountable for filings and the assertions made in their filings. While the regulation generally does not permit the acceptance of a signature of another person on behalf of an individual except in the specific circumstance of an individual under the age of 14 or a mentally incompetent individual, signatures on petitions and applications filed by corporations or other legal entities necessarily are provided by individuals authorized to act on behalf of the corporation or other legal entity. The regulation thus may be construed to permit the acceptance of authorized signatures on behalf of corporations or other legal entities, as discussed in detail below, including an authorized agent under appropriate circumstances.

### Policy

#### A. Signature Requirements

USCIS requires a valid signature on an application, petition, request, and certain other documents filed with USCIS (hereinafter “request”). Except as specifically authorized in the regulations, this PM, or in the respective form instructions, an applicant, petitioner, or requester (hereinafter “requester”) must personally sign his or her own request before filing it with USCIS.<sup>2</sup>

<sup>1</sup> The only exception applies in the context of Form N-400, Applications for Naturalization. USCIS policy permits “designated representatives” to sign Form N-400 on behalf of an applicant who is unable to understand, or communicate an understanding of, the oath of allegiance required for naturalization. See INA 337(a); Policy Manual, Volume 12, Part C, Chapter 3 and Volume 12 Part J, Chapter 3. For purposes of naturalization, the policy manual defines “designated representatives” as legal guardians or United States citizen spouses, parents, adult sons or daughters, or adult brothers or sisters.

<sup>2</sup> This PM uses the term “request” to refer to any written request for an immigration benefit, service, or request for action, whether the request is submitted on an OMB-approved form or is an informal written request submitted to USCIS. The term also includes motions and appeals filed on Form I-290B as well as any form supplements and any other materials that require the signature of the requester. The Form I-290B and its instructions specifically permit an attorney or accredited representative to file and sign an appeal or motion on behalf of a requester. The only exception to this requirement is for naturalization applications where a “designated representative,” as defined in the Policy Manual, may sign an application on behalf of an applicant who otherwise qualifies for an oath waiver under INA 337(a) because of a physical or developmental disability or mental impairment.

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A valid signature consists of any handwritten mark or sign made by an individual to signify his or her knowledge of the contents of the request and any supporting document(s); review and approval of any information contained in such request and any supporting document(s); and certification under penalty of perjury that the request and any other supporting documents are true and correct.

A valid signature does not need to be legible or in English and may be abbreviated provided this is consistent with how the person normally signs his or her name. *See*, 8 CFR § 103.2(b)(4). A valid signature does not have to be in cursive handwriting. *See* 8 CFR § 103.2(b)(5) and (b)(8). An individual who is unable to write in any language may place an “X” or similar mark in lieu of a signature. A signature is valid even if the original signature is later photocopied, scanned, faxed, or similarly reproduced. Regardless of how it is transmitted to USCIS, such copy must be of an original document containing a handwritten, ink signature, unless otherwise provided by regulation or form instruction.<sup>3</sup> USCIS will not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device.

If USCIS determines that the requisite signature on the request is not valid, the request will be deemed to not be signed, and pursuant to 8 CFR § 103.2(a)(7), USCIS will reject the request and return it to the responsible party. If a request has been accepted for adjudication and is determined to have a deficient signature, or USCIS has reason to question the validity of the signature, or needs additional information to confirm that the individual is authorized to act on behalf of an individual, corporation, or other legal entity, USCIS may ask an individual, either via a Request for Evidence or other type of notice, or at the time of any interview, to sign the request and/or to verify that he or she is authorized to sign documents on behalf of an individual, corporation, or other legal entity. USCIS may also refer the file or record to the Fraud Detection and National Security Unit where appropriate.

### B. Who Must Sign a Request or Document Submitted to USCIS?

#### *1. Individuals Requesting an Immigration Benefit or Other USCIS Action*

Any individual filing a request or any other document with USCIS must personally sign the request or document. The term “individual,” as used in section B.1, excludes corporations or other legal entities as well as attorneys, accredited representatives, agents, preparers, and interpreters. No other person is permitted to sign a request or document on behalf of an individual filing a request with USCIS except when that individual is under 14 years of age or is mentally incompetent.

<sup>3</sup> ~~The regulations do not require that~~ a requester submit an “original” or “wet ink” signature on a petition, application, or other request to USCIS. *See* 8 CFR § 103.2(b)(4). If USCIS has reason to question the signature it may request the original document or more evidence from the requester in accordance with 8 CFR § 103.2(b)(8).

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A parent or legal guardian may sign a request for a child who is less than 14 years old. A legal guardian may sign a request for a mentally incompetent person. For purposes of 8 CFR § 103.2(a)(2), a legal guardian means an individual currently vested, by appointment from a court or other public authority with jurisdiction to act, with legal custody of the child or with the legal authority to act on behalf of the child or of the incapacitated adult as the authorized representative of the court or other public authority. An individual acting under the authority of this appointment is a “legal guardian” for purposes of 8 CFR § 103.2(a)(2) even if the law of the jurisdiction refers to the individual as “conservator,” “committee,” “tutor,” or other title designating a duly appointed surrogate. Legal guardian does not include other individual(s) having only a legitimate interest other than the above-referenced appointed authority in the legal affairs of the child or incapacitated adult or acting *in loco parentis*, or an individual who is a spouse, son or daughter, sibling or another individual unless conferred with signature authority based on legal guardianship as described above. USCIS requires documentary evidence that establishes the legal guardian’s authority to sign a request on behalf of the child or mentally incompetent person. Acceptable documents include, but are not limited to, official letters of guardianship or other orders issued by a government agency or court authorized to make such appointments under the law governing the place of residence of the child or incapacitated adult.

Formal court appointment is not necessary if an individual signs on behalf of an incapacitated adult under the authority of a Power of Attorney (POA) or similar legally binding document. But in the case of an incapacitated adult, the POA must be durable, and the immigration benefit request must include a copy of the durable POA, and evidence (such as a physician’s statement) indicating that the durable POA is in effect as a result of the incapacitated adult’s disability.

### 2. *Individuals Employed Within a Corporation or Other Legal Entity Who Are Permitted to Sign a Request or Submit a Document to USCIS*

Under the Immigration and Nationality Act (INA), corporations and other legal entities, such as a professional corporation (abbreviated as PC or P.C.), limited liability company (LLC), or limited liability partnership (LLP), are permitted to file certain requests with USCIS. Such a filing may include a request to classify a foreign national as an immigrant or nonimmigrant under a specific employment-based category or may serve another purpose. Legal entities, in certain circumstances, also are permitted to file a request with USCIS to extend a petition’s validity period and the authorized period of stay for a current nonimmigrant worker.

Only certain individuals have the authority to sign a request or other document that will be filed with USCIS on behalf of a corporation or other legal entity.<sup>4</sup> Authorized persons may include but are not limited to:

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<sup>4</sup> An owner of a sole proprietorship must sign any request as an individual. This section of the PM does not apply to sole proprietors.

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- (1) An executive officer of a corporation or P.C. with authority to act on behalf of the corporate entity and legally bind and commit the corporate entity in all matters (e.g., Chief Executive Officer, President, Vice President);
- (2) A managing member or managing partner of an LLC or LLP;
- (3) A duly authorized partner of a partnership;
- (4) An attorney employed by the corporation or other legal entity as its legal representative or as a legal representative by the corporation or other legal entity's legal department (e.g., "In-house counsel," or other attorney employees or contractors);
- (5) A person employed as a human resources professional within the entity's human resources, human capital, employee relations, personnel, or similar department who is authorized to sign legal documents on behalf of the corporation or other legal entity;
- (6) An executor or administrator of an estate;
- (7) A trustee of a trust or a duly appointed conservator;
- (8) Any other person employed by the corporation or other legal entity, irrespective of his or her title and/or the name of his or her department with the corporation or other legal entity, who has the authority to legally bind and commit the corporation or other legal entity to the terms and conditions attached to the specific request and attestations made therein; or
- (9) An agent (such as an outside attorney) acting on behalf of the corporation or other legal entity to the extent provided below by section B.3 of this memorandum.

In all cases, the benefit request must contain a statement by the person signing the request, affirming that he or she has the legal authority to file the request on the petitioning employer's behalf, that the employer is aware of all of the facts stated in the request, and that such factual statements are complete, true, and correct. If such an affirmation is contained in the form itself, a signature by the person filing the form may be sufficient to meet this requirement. In cases where the affirmation specified above is not contained in the form or document, USCIS will require a separate statement from the person signing the form or document affirming that he or she has the authority to legally bind the corporation or other legal entity. In all cases, USCIS may, where it has reason to doubt the veracity of the person's authority to sign or act on behalf of the corporation or other legal entity, request evidence as necessary to demonstrate that the person has the requisite legal authority to sign the request. Such requested evidence may include but is not limited to: bylaws, articles of organization, a letter reflecting delegation of such authority from a corporate officer or board member, board of director's minutes reflecting the grant or the board's approval of such authority being exercised by the person in question, or a similar document that indicates the employee may legally bind the corporation or other legal entity with his or her signature.

### *3. Agents Acting on Behalf of a Corporation or Other Legal Entity<sup>5</sup>*

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<sup>5</sup> This section does not address agents who are permitted to act as a petitioner for a corporation or other legal entity seeking an H, O, or P nonimmigrant worker, as provided in 8 CFR § 214.2(h)(2)(i)(F), (h)(5)(i)(A), (h)(6)(iii)(B), (o)(2)(i), (o)(2)(iv)(E), (p)(2)(i), (p)(2)(iv)(E). Please refer to the particular nonimmigrant category's regulations or

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Many legal entities hire agents, including outside counsel, to act on their behalf in various business matters and legal transactions. USCIS recognizes the authority of agents to act on the petitioning corporation's or other legal entity's behalf and file requests and other documents with USCIS under certain prescribed circumstances.

USCIS will only recognize signatory authority of an agent if the INA or governing regulations do not preclude such agents and the agent has been authorized to act on the corporation's or legal entity's behalf through a written POA. A POA is a written authorization to act on another's behalf in certain specified private or business affairs or other legal matters. An individual granted a POA does not need to be an attorney or an accredited representative to be recognized as an authorized agent. However, if in addition to signing the form, the agent is acting as the requester's attorney or authorized representative in continued dealings and communications with the Department of Homeland Security (DHS), the individual must also submit a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, and meet the requirements of 8 CFR pt. 292.

USCIS will only accept a POA if it has been executed in accordance with the state laws governing the jurisdiction in which the corporation or other legal entity conducts business or has filed its articles of incorporation or organization.<sup>6</sup> The POA also must be personally signed by an "authorized person" of the corporation or other legal entity other than an agent (see section B.2 above). The POA must authorize the agent to act on behalf of a corporation or other legal entity in specific matters, but does not need to detail any particular immigration filing or document. USCIS will normally consider a POA valid if, in addition to the requirements above, the POA:

- (1) Indicates the period of validity, including an expiration date, or a statement that the POA is valid until revoked or terminated in accordance with governing state laws;
- (2) States that the agent's authority extends to the corporation's or other legal entity's immigration dealings or transactions before USCIS;
- (3) Specifically names the agent as the person authorized to sign documents filed with USCIS on behalf of the corporation or legal entity; and
- (4) Is in force at the time the agent files a request or document with USCIS.

USCIS will not accept any request or document signed by an agent unless it is accompanied by an original POA or a copy of a valid POA. The POA or a copy of the POA must be submitted each time an agent files a request with USCIS regardless of whether the agent has previously filed requests with, or submitted documents to, USCIS on behalf of the corporation or other legal entity or previously provided a valid POA to USCIS. A POA will generally be

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the Form I-129, *Petition for a Nonimmigrant Worker*, instructions for the requirements governing the scope of an agent's authority in those contexts.

<sup>6</sup> It is the petitioner's burden to demonstrate that these state requirements have been satisfied.

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This memo constitutes agency policy accepted by USCIS adjudicators as valid if it is properly signed and satisfies the criteria enumerated above.  
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### C. Purpose of the Form G-28

When an attorney or accredited representative submits a signed Form G-28 to USCIS, that attorney/accredited representative is certifying that the individual, corporation, or other legal entity named in the Form G-28 has authorized the attorney/accredited representative to act on the individual's or other legal entity's behalf when filing requests or other documents with USCIS. Consistent with the discussion above, a Form G-28, however, does not by itself authorize a representative to sign a request or other document on the individual's, corporation's, or legal entity's behalf, except when the attorney/accredited representative is filing a Form I-290B, Notice of Appeal or Motion, or Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of an Immigration Officer, on behalf of the individual, corporation, or legal entity after USCIS issues an adverse decision in a case. Further, an attorney or accredited representative may not use a POA to sign a Form G-28 on behalf of an individual, corporation, or other legal entity to authorize his or her own appearance.

### D. Form Revisions

USCIS may specify on each form or in the form's instructions that will be made available for public use, the signature requirements and evidence that must be submitted with a request or other document to establish that any person signing a document in lieu of the requester has the authority to act on a requester's behalf. Revised public use forms will be published for public comment as required by 5 CFR § 1320.8(d)(1). If a form contains no clear signature authority requirements or limitations then this PM governs.

### **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 the Office of Policy and Strategy.