



EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

RECOGNITION AND ACCREDITATION PROGRAM OVERVIEW

February 04, 2011

USDOJ/EOIR/BIA/Office of the Clerk

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RECOGNITION AND ACCREDITATION OVERVIEW

- The information appearing in this Overview is for general informational purposes only and is not intended to provide legal advice to any individual or entity on the recognition and accreditation process
- The Overview is also a work in progress and will be updated from time to time as appropriate

A QUALIFIED ORGANIZATION

- Immigration law provides that an alien in immigration proceedings has the privilege of being represented, at no expense to the government, by counsel selected by the alien and authorized to practice law (Section 292 of the Immigration and Nationality Act, 8 U.S.C. § 1362)
- Federal regulations (8 C.F.R. part 1292) specify who may represent an alien in immigration proceedings and the requirements they must meet
- These regulations permit recognized organizations and their accredited representatives to represent aliens in immigration proceedings

A QUALIFIED ORGANIZATION *(continued)*

- A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board of Immigration Appeals (“Board”) may designate a representative or representatives to practice before the Department of Homeland Security (“DHS”), the Board, and the Immigration Courts, or before the DHS alone (See 8 C.F.R. §§ 292.2, 1292.2.)

A QUALIFIED ORGANIZATION MUST ESTABLISH TO THE SATISFACTION OF THE BOARD THAT IT:

- Only charge nominal fees and assesses no excessive membership dues for persons given assistance; and
- It has at its disposal adequate knowledge, information and experience

REQUESTING RECOGNITION FOR YOUR ORGANIZATION

- Completion of Form EOIR-31, available on EOIR's website at:

<http://www.usdoj.gov/eoir/eoirforms/eoir31.pdf>

- A copy of the Form EOIR-31 must be sent to the local District Director for Citizenship and Immigration Services (USCIS)
- A second copy of the form must be sent to the Chief Counsel in charge of the local office of Immigration and Customs Enforcement (ICE)

REQUESTING RECOGNITION FOR YOUR ORGANIZATION *(continued)*

- The original completed Form EOIR-31 must be sent directly to EOIR's Recognition and Accreditation Coordinator at the address below with a Completed Certificate of Service / Proof of Service (indicating that a copy was sent to the above two DHS offices)
- For courier or overnight delivery service send applications to:
Recognition and Accreditation Program Coordinator
Executive Office for Immigration Review
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041
- For regular first class mail send applications to:
Recognition and Accreditation Program Coordinator
Executive Office for Immigration Review
Clerk's Office
P.O. Box 8530
Falls Church, VA 22041

REQUESTING RECOGNITION FOR YOUR ORGANIZATION *(continued)*

- If an organization maintains offices in multiple locations, and would like all branch locations recognized by the Board:
 - A complete and separate recognition application, and Form EOIR-31, is required for each branch location
 - A complete and separate request for accreditation for each proposed accredited representative for each branch is required
 - An application must always include the Certificate of Service / Proof of Service indicating that a copy was sent to: (1) the local District Director for USCIS, and (2) the local Chief Counsel in charge for ICE
 - Failure to include a Certificate of Service / Proof of Service can delay processing of the application

REQUESTING RECOGNITION FOR YOUR ORGANIZATION *(continued)*

See Matter of EAC, 24 I&N Dec. 556 (BIA 2008)

- In addition to the application, and Form EOIR-31, the supporting documentation should also include:
 - Organizational documents: a copy of the organization's Charter, Constitution, Articles of Incorporation, and/or Bylaws
 - Description of all staff and/or a diagram of the organizational structure, showing hierarchical supervision of staff members

REQUESTING RECOGNITION FOR YOUR ORGANIZATION *(continued)*

See Matter of EAC, 24 I&N Dec. 556 (BIA 2008)

- Information regarding nominal charges:
 - A copy of fee schedule and explanation of sources of funding for the organization other than from dues or fees
 - Information regarding charges or membership dues, if any
 - If an organization does not charge fees, it should clearly state that it charges no fees in its application

WHAT ARE “NOMINAL CHARGES”?

- The Board uses a case-by-case analysis and gives the word “nominal” its usual and customary meaning
- “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
- See *Matter of American Paralegal Academy, Inc.*, 19 I&N Dec. 386 (1986)

REQUESTING RECOGNITION FOR YOUR ORGANIZATION *(continued)*

See Matter of EAC, 24 I&N Dec. 556 (BIA 2008)

- An organization requesting recognition should have at its disposal adequate knowledge, information (ready access to adequate legal resources in its office), and experience
- Supporting documentation should include:
 - Proof of adequate staffing and documentation of any supervision or assistance provided by attorneys, including proof of the immigration expertise of the attorneys
 - Resumes of employees
 - Letters of recommendation from relevant individuals
 - Certificates from training courses, conferences, or other educational activities
 - Description of the specific immigration legal services offered
 - Legal resource materials and a list of library resources

REQUESTING RECOGNITION FOR YOUR ORGANIZATION: WHAT TO EXPECT

- The District Director of USCIS and the Chief Counsel for ICE shall forward a recommendation to the Board for approval or disapproval of the application within 30 days from the date of service
- The DHS component shall include the Certificate of Service / Proof of Service indicating that a copy of its recommendation or request for further information was sent to the organization
- The organization has 30 days to file a response with the Board if the DHS's recommendation was other than favorable

REQUESTING RECOGNITION FOR YOUR ORGANIZATION: WHAT TO EXPECT

(continued)

- The application for recognition is forwarded to the Board, which adjudicates the application
- If the application is approved, the organization's name is added to the roster of recognized organizations and accredited representatives (updated quarterly)

WITHDRAWAL OF RECOGNITION

- An organization's recognition does not expire. However, the Board may withdraw an organization's recognition at any time if the organization fails to maintain the qualifications required by regulations
- A procedure for withdrawal of recognition is provided in the regulations
 - In order for an organization's recognition to be withdrawn, DHS must issue an order to show cause
 - An Immigration Judge then holds a hearing, receives evidence, makes findings of fact, states his or her recommendations, and forwards the complete record to the Board
 - The Board then holds oral argument and decides whether the organization's recognition should be withdrawn
 - The Board may also *sua sponte* reconsider a decision approving recognition (See 8 C.F.R. §§ 292.2, 1292.2.)

HELPFUL TIPS FOR RECOGNIZED ORGANIZATIONS

- Recognized Organizations **must** promptly notify EOIR in writing of the following circumstances:
 - Name change of organization – the roster lists an organization by the name used when recognition was granted
 - Change of address or public telephone number
 - If an accredited representative with the organization changes his/her name
 - If an accredited representative is no longer working with the organization

ACCREDITATION OF REPRESENTATIVES

- An organization recognized by the Board may apply for either Full or Partial accreditation of persons of good moral character as its representatives
- There is no formal application for accreditation
 - Instead, an organization should submit a letter on the organization's letterhead requesting accreditation and setting forth the proposed representative's qualifications with supporting documentation
- The process to request accreditation is similar to the application process for recognition
- Accreditation is not transferable from one organization to another
- A new application is needed when a representative works with a new organization

ACCREDITATION OF REPRESENTATIVES

(continued)

- Accredited Representatives are subject to the Rules of Professional Conduct for Practitioners
 - See 8 C.F.R. §§ 292.3(a)(2), 1292.3(a)(2) which state that persons subject to sanctions for violating the rules of professional conduct include any representative as defined in 8 C.F.R. §§ 1.1(j), 1001.1(j).
 - All accredited representatives should familiarize themselves with the Rules of Professional Conduct (*See* 8 C.F.R. §§ 292.2, 1292.2.)

TYPES OF ACCREDITATION

- Full Accreditation: Allows the representative to represent the alien before DHS, Immigration Courts, and the Board
- Partial Accreditation: Allows the representative to represent aliens before DHS ONLY

INSTRUCTIONS FOR PREPARING ACCREDITATION APPLICATIONS

- Requests for accreditation should be submitted on the organization's letterhead from the head of the organization
- Separate requests for each individual must be submitted
 - If an organization maintains offices in multiple locations, and would like all branch locations recognized by the Board to have an accredited representative at a branch:
 - The branch must already be recognized before the organization submits a request for accreditation of a representative at that location **or** a complete and separate recognition application (Form EOIR-31) for the branch location must accompany the request for accreditation of the representative at that location
 - A complete and separate accreditation request for each proposed accredited representative for each branch is required
 - An application must always include the Certificate of Service / Proof of Service indicating that a copy was sent to: (1) the local District Director for USCIS, and (2) the local Chief Counsel in charge for ICE
 - Failure to include a Certificate of Service / Proof of Service can delay processing of the application
 - The cover letter should also state the location for which accreditation is requested

APPLYING FOR ACCREDITATION

- A Request for Accreditation Should:
 - *Clearly* state which category of accreditation is being sought
 - **Full Accreditation** or
 - **Partial Accreditation**
 - Set forth the nature and extent of the proposed representative's experience and knowledge of immigration and naturalization law and procedure
 - Submit materials two-holed punched and fastened at the top (Otherwise, staple or binder clip the materials *without a binder*)

APPLYING FOR ACCREDITATION *(continued)*

- Each application for recognition and each request for accreditation and its supporting documentation must stand alone
- If a document is submitted to support a recognition application and an accreditation application request, the document should be duplicated or copied, and accompany both applications separately
- In seeking recognition of the organization and the accreditation of its representatives, the organization submits supporting documentation in the form of resumes, certificates of training, and letters of recommendation
- This supporting documentation must be duplicated or copied for the application for recognition and each of its accreditation requests (full or partial) for its staff members to demonstrate, in part, that the organization has at its disposal adequate knowledge, information and experience in immigration law

REQUESTING ACCREDITATION

See Matter of EAC, 24 I&N Dec. 563 (BIA 2008)

- List of items generally considered when applying for both Full and Partial Accreditation:
(See Page 25 for additional items that must be submitted for Full Accreditation)
 - A cover letter from the organization requesting the accreditation, along with:
 - Letters of Recommendation written on behalf of those individual(s)
 - Information regarding supervision: whether or not the individual is supervised by an attorney or accredited representative

REQUESTING ACCREDITATION *(continued)*

See Matter of EAC, 24 I&N Dec. 563 (BIA 2008)

- Statement of Qualifications:
 - Resume and information regarding:
 - Length of time that the individual has been with the organization
 - Training: Training certificates, and/or list of training/conferences/classes attended. Give details regarding the content of the training
 - Legal experience, including familiarity with the practice and procedure of immigration law before the DHS; and
 - Explain how the individual will be able to use his or her skills effectively before the DHS
 - An application must always include the Certificate of Service / Proof of Service indicating that a copy was sent to: (1) the local District Director for USCIS, and (2) the local Chief Counsel in charge for ICE
 - Failure to include a Certificate of Service / Proof of Service can delay processing of the application

REQUESTING ACCREDITATION *(continued)*

See Matter of EAC, 24 I&N Dec. 563 (BIA 2008)

- List of items generally considered when applying for Full Accreditation:
 - All of the items listed on Page 23 and Page 24 *in addition to*:
 - Information regarding how the individual possesses skills for effective litigation and will be able to use his or her skills to represent aliens before the Immigration Courts, the Board, and the DHS
 - Information regarding the individual's litigation skills (including for example the ability to perform legal research, draft briefs or motions, introduce evidence and question witnesses) and the individual's familiarity with the practice and procedure of immigration law before EOIR and DHS

HOW LONG IS AN ACCREDITATION VALID?

- The Board's accreditation of representatives expires every *three years*; however, renewal may be requested by filing applications with the Board
- If a request for renewal of accreditation is filed at least 60 days before the end of the third year, accreditation will remain valid pending the Board's consideration of the request for renewal

RECOGNITION APPLICATION FORM & ROSTERS

- When Applying for Recognition, the Form EOIR-31 is found at: <http://www.usdoj.gov/eoir/eoirforms/eoir31.pdf>
- The Rosters can be viewed in three formats at this site: <http://www.justice.gov/eoir/statspub/raroster.htm>
 - Recognized Organization Listing
 - Accredited Individuals Listing
 - Organizations and Their Representatives by State Listing

CONTACT INFORMATION

- For courier or overnight delivery service send applications to:
Recognition and Accreditation Program Coordinator
Executive Office for Immigration Review
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041
- For regular first class mail send applications to:
Recognition and Accreditation Program Coordinator
Executive Office for Immigration Review
Clerk's Office
P.O. Box 8530
Falls Church, VA 22041
- If you have any questions, please call:
The Clerk's Office at (703) 305-9029