



November 17, 2015

PM-602-0127

## Policy Memorandum

SUBJECT: Updated Paper Version of Form G-28, Notice of Entry of Appearance as Attorney or Representative

### Purpose

This policy memorandum (PM) provides current U.S. Citizenship and Immigration Services (USCIS) guidance regarding changes in the paper version of the new Form G-28, Notice of Entry of Appearance as Attorney or Representative (G-28). This PM does not address filings made in USCIS Electronic Immigration System (ELIS).

### Scope

Unless specifically exempted herein, this PM applies to and is binding on all USCIS operations for documents filed on paper or through the legacy e-filing system.

### Authority

- 8 U.S.C. 1103(a).
- 8 CFR part 1.2 (definitions of “Attorney,” “Practice,” “Preparation,” “Representation,” and “Representative”).
- 8 CFR part 292.

### Background

On October 29, 2014, USCIS published a final rule, *Notices of Decisions Evidencing Lawful Status* (79 Fed. Reg. 64299). The rule became effective on January 27, 2015, amending USCIS regulations governing when USCIS will issue correspondence, notices, and documents evidencing status to an applicant, petitioner, requester, or an attorney of record or Board of Immigration Appeals (BIA) accredited representative. USCIS has updated Form G-28 to reflect these amended regulations.

## Policy

### *New Form*

The revised Form G-28, (edition date March 4, 2015), includes two new check boxes on page 3 at **Item Number 2.a.** and **Item Number 2.b.** in **Part 4** to indicate his/her mailing preferences for notices and secure documents. Checking the box for **Item Number 2.a.** on the new Form G-28 means that the applicant/petitioner/requestor wishes USCIS to send original notices, such as appointment notices, Requests for Evidence, and approval notices (including those with tear-off Form I-94s), directly to his or her attorney of record or BIA-accredited representative (“legal representative”) named on the Form G-28. In such a case, only courtesy copies will be sent to the applicant.

Checking the box for **Item Number 2.b.** on the new Form G-28 means that the applicant wishes USCIS to send secure documents, such as Naturalization Certificates and Permanent Resident or Employment Authorization Documents, directly to the legal representative named on the Form G-28.

If the applicant does not check either box on a submission of the revised Form G-28, USCIS will send all original notices and secure documents to the applicant and a copy of the notice only to the representative.

### *Transition to the New Form*

For a pending case with an existing Form G-28 on file that was submitted prior to the transition, USCIS will continue sending the original notices to the legal representative until and unless the applicant changes the request.

On May 15, 2015, USCIS began rejecting versions of Form G-28 dated February 28, 2013, or earlier. For USCIS to recognize the mailing preferences for notices and secure documents, applicants and legal representatives must complete the new revised form and submit it to USCIS. If USCIS receives an application, petition, or request (“request”) accompanied by a prior version of Form G-28, the underlying request should be accepted unless the Lockbox rejects the form based on established criteria. The older version of Form G-28 will not be accepted and USCIS will treat the case as if the applicant is unrepresented, and correspond and communicate only with the applicant. If the applicant wishes USCIS to recognize his or her legal representative, the applicant’s legal representative must submit a current revised version of Form G-28.

### *Changing Mailing Preferences After Filing*

Applicants can change their legal representation and/or their mailing preferences any time after filing a request. They can also withdraw their legal representation altogether.

- **Same Legal Representative, Changed Mailing Preferences:** If the applicant is currently represented and only seeks to change his or her mailing preferences, the applicant must submit a new Form G-28 to the USCIS office where the case is pending. The Form G-28 must be signed by the legal representative and the applicant. The checkbox for **Item Number 2.b.** in **Part 4.** must be checked if the applicant wants USCIS to send the secure document to the legal representative. For cases where USCIS’ approval results in the

issuance of a tear-off Form I-94, Arrival/ Departure Record, the applicant should leave the checkbox for **Item Number 2.a.** blank if he/she wishes to receive Form I-94 directly.

- ***Changing Legal Representation:*** The applicant or legal representative must send a new Form G-28 to the USCIS office where the case is pending. The new Form G-28 must be signed by the applicant and the new legal representative. The mailing preferences for receiving notices and secure documents must be indicated by checking (or not checking) the boxes for **Item Numbers 2.a.** or **2.b., or both**, in **Part 4**.
- ***Withdrawing Legal Representation:*** To withdraw legal representation altogether, the applicant or legal representative must write to the USCIS office where the case is pending.
- ***Pending Cases with Forms G-28 filed before March 4, 2015:***
  - Original Form I-94: Applicants with pending cases filed before March 4, 2015, with the version of Form G-28 in effect at that time, do not need to take any action if there has been no change in legal representation.
  - Secure Documents: Applicants who are retaining their current legal representative, but want their secure documents such as Permanent Resident Cards, Employment Authorization Cards, or Certificates of Naturalization sent to their legal representative directly, must submit a new Form G-28. The new Form G-28 must be signed by both the applicant and the legal representative.

#### *Special Situations Involving Victim Cases*

Cases involving certain victims of crime or abuse require confidential handling. USCIS has traditionally taken care to avoid mailing notices or other communications to an address which would allow an abuser or victimizer to learn of a victim's application or petition for immigration benefits. The October 29, 2014 final rule and new Form G-28 did not change these protections.

For victim-related cases, USCIS will send all notices, Approval Notices, secure documents, and other communications to the legal representative named on Form G-28, regardless of which edition of the form is on file. In the event that no Form G-28 is on file but the application or petition indicates a safe mailing address or that a preparer helped the victim submit the benefit request, USCIS will send all communications to the safe mailing address or preparer as appropriate. Such cases include but are not necessarily limited to:

- Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant;
- Form I-914, Application for T Nonimmigrant Status;
- Form I-918, Petition for U Nonimmigrant Status; and
- Form I-929, Petition for Qualifying Family Member of U-1 Nonimmigrant.

**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 using the appropriate channels in your program office or directorate.