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Immigration Practice Update – April 11, 2013

Applicants Will Soon Have Fingerprints and Photo Taken at Interviews

USCIS [recently announced](#) that starting Monday, May 6, 2013, USCIS field offices will begin taking fingerprints and photos of applicants at their interviews. USCIS is calling this a "Customer Identity Verification" process, and the purpose is to "both defend against threats to national security and protect customers from identity fraud by enhancing the agency's ability to verify identity."

This process will also occur when applicants appear at the field office to receive evidence of an immigration benefit, such as temporary travel documents, parole authorizations, temporary extensions of Form I-90 (replacement green cards), and temporary I-551 stamps on passports. Customers who have Infopass appointments will not be subject to this new process.

The USCIS news release does not mention that a new cost to the applicant will be involved, so we presume that the customer will not be paying an additional fee for this process.

BIA Addresses Training Requirements for Accredited Representatives

The Board of Immigration Appeals recently issued a precedent decision in [Matter of Central California Legal Services Inc](#) (decided March 28, 2013) that imposes new specific training requirements for individuals seeking to become accredited to represent individuals in immigration matters.

As background, federal regulations allow non-profit organizations to apply for "recognition" to represent individuals in legal immigration matters if they charge only "nominal" fees. [See 8 CFR 1292.2](#). Employees of those organizations may then apply to become "accredited" to appear before USCIS and the Immigration Courts in order to assist clients with immigration cases. The regulation states that the accreditation application must show the applicant's "knowledge of immigration and naturalization law and procedure" (8 CFR 1292.2(d)). The Board had [previously held](#) that this requirement means that the applicant must have "a broad knowledge of immigration law and procedure ... to ensure that a duly accredited representative is able to readily identify immigration issues of all types, even in areas where no services are provided, and has the ability to discern when it is in the best interests of the aliens served to refer those with more complex immigration issues elsewhere."

Now, under the recent *Central California Legal Services* case, the Board has more specifically laid out the type of training that would enable an applicant to demonstrate the required "broad" knowledge of immigration law. The Board held

"that a successful application for initial accreditation must show that a proposed representative has recently completed at least one formal training course designed for new practitioners and that the training provided a solid overview of the fundamentals of immigration law and procedure. Thus, in the request for accreditation, the organization should submit information about a proposed representative's training, including the date(s) of the overview course (and all other trainings), the provider or providers, the hours completed, the topics addressed at each training, and certificates of completion, where available."



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BIA-recognized organizations and applicants for accreditation should now be aware that training in specific areas of immigration law may not be sufficient to satisfy the training requirement - a "fundamentals" type of course will be needed to demonstrate the "broad" knowledge that is required.

The Board also indicated that accredited representatives seeking renewal should also provide information on additional training that the representative took since the most recent accreditation.

TPS Extended for Hondurans

On April 3, 2013, [USCIS announced](#) that TPS will be extended for eligible nationals of Honduras for an additional 18 months, beginning July 6, 2013, and ending January 5, 2015. Current beneficiaries of TPS can re-register by filing Form I-821 and Form I-765 between April 3, 2013 and June 3, 2013. See the USCIS announcement for more details.

TPS Extended for Nicaraguans

On April 3, 2013, [USCIS announced](#) that TPS will be extended for eligible nationals of Nicaragua for an additional 18 months, beginning July 6, 2013, and ending January 5, 2015. Current beneficiaries of TPS can re-register by filing Form I-821 and Form I-765 between April 3, 2013 and June 3, 2013. See the USCIS announcement for more details.

Attorneys and Accredited Representatives Will Have to Electronically Register with Immigration Courts

On April 1, 2013, the Executive Office for Immigration Review published a [final rule in the Federal Register](#) indicating that it intends to require attorneys and accredited representatives to register electronically in order to represent individuals in Immigration Court. The electronic registry has not yet been established, and there is no date set by which practitioners must register. The April 1 notice indicates that EOIR will publish another rule in the future specifying the date on which attorneys and accredited representatives must register. This final rule actually follows up on a [proposed rule](#) that EOIR published in 2003. The electronic registration requirement is actually part of a broader initiative by EOIR to move to an electronic case access and filing system.

The registration requirement will be a two-step process. The registrant will first create a unique UserID and password for online access to the registry. Then the registrant will have to present a photo ID in person at any immigration court and, possibly, other locations where EOIR hearings are conducted, including those where hearings are conducted by video conference. After EOIR has validated the applicant's identity, EOIR will assign a unique EOIR identification number and approve a registry account.

A registrant will have to provide the following information: full name; date of birth; business address(es); business telephone number(s); email address; bar admission information (for attorneys); and recognized organization (for accredited representatives).

[MIRC](#) will follow this development and update the community when EOIR issues more details about the registration process.

USCIS Issues Revised Form G-28

USCIS has issued an updated Form G-28. The G-28 is used by attorneys and accredited representatives in order to appear before USCIS to represent clients in certain matters. By filing Form G-28, attorneys and accredited representatives have the right to receive copies of correspondence that is mailed to applicants, to appear at interviews at USCIS offices, and to advocate with USCIS on the client's behalf.

The main difference in the new form, other than a new two-column format, is the addition of a 2D barcode at the bottom of each page. The new form must be used as of May 27, 2013. Prior editions of the form will only be accepted until May 26. The new form can be found on the [USCIS site here](#).

Based on past experience with revised immigration forms, we do not think that practitioners will have to submit the new G-28 in pending cases in order to continue being listed as the attorney/representative of record. However, we recommend that practitioners have a new form signed by the client in the event that it is needed; e.g, the attorney needs to submit an inquiry to a USCIS office regarding the pending case.