

PART 1292—REPRESENTATION AND APPEARANCES

IN GENERAL

Sec.

- 1292.1 Representation of others.
- 1292.2 [Reserved]
- 1292.3 Conduct for practitioners and recognized organizations—rules and procedures.
- 1292.4 Appearances.
- 1292.5 Service upon and action by attorney or representative of record.
- 1292.6 Interpretation.

RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF NON-ATTORNEY REPRESENTATIVES

- 1292.11 Recognition of an organization.
- 1292.12 Accreditation of representatives.
- 1292.13 Applying for recognition of organizations or accreditation of representatives.
- 1292.14 Reporting, recordkeeping, and posting requirements for recognized organizations.
- 1292.15 Extension of recognition and accreditation to multiple offices or locations of an organization.
- 1292.16 Renewal of recognition and accreditation.
- 1292.17 Administrative termination of recognition and accreditation.
- 1292.18 Administrative review of denied requests for reconsideration.
- 1292.19 Complaints against recognized organizations and accredited representatives.
- 1292.20 Roster of recognized organizations and accredited representatives.

AUTHORITY: 8 U.S.C. 1103, 1362.

SOURCE: Duplicated from part 292 at 68 FR 9845, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1292 appear at 68 FR 9846, Feb. 28, 2003, and 68 FR 10360, Mar. 5, 2003.

IN GENERAL

§ 1292.1 Representation of others.

(a) A person entitled to representation may be represented by any of the following:

(1) *Attorneys in the United States.* Any attorney as defined in § 1001.1(f) of this chapter and who, once the registration requirements in paragraph (f) of this section have taken effect, is registered to practice with the Executive Office for Immigration Review.

(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 accred-

ited U.S. law school who is not yet admitted to the bar, provided that:

(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 an EOIR-registered 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 without direct or indirect remuneration from the alien he or she represents;

(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 an EOIR-registered licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration from the alien he or she represents;

(iv) When the law student or law graduate appears before the immigration court or the Board of Immigration Appeals, the law student or law graduate is supervised by an attorney or accredited representative who must appear simultaneously at the same hearing. The accompanying attorney or accredited representative must be authorized to practice before EOIR and be prepared to proceed with the case at all times; and

(v) All filings by law students and law graduates are made through an EOIR-registered attorney or accredited representative.

(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 appearance is permitted by the official before whom he wished to appear (namely, a special inquiry officer, district director, officer-in-charge, regional commissioner, the Commissioner, or the Board), provided that such permission shall not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself out to the public as qualified to do so.

(4) *Accredited representative.* An individual whom EOIR has authorized to represent immigration clients on behalf of a recognized organization, and whose period of accreditation is current and has not expired. A partially accredited representative is authorized to practice solely before DHS. A fully accredited representative is authorized to practice before DHS, and upon registration, to practice before the Immigration Courts and 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.

(b) *Persons formerly authorized to practice.* A person, other than a representative of an organization described in §1292.2 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 §1292.3 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.

(f) *Registration requirement for attorneys and accredited representatives.* The Director or his designee is authorized to register, and establish procedures for registering, attorneys and accredited representatives, specified in para-

graph (a) of this section, as a condition of practice before immigration judges or the Board of Immigration Appeals. Such registration procedures will include a requirement for electronic registration and that each registrant validate his or her identity by presenting photo identification. The Director or his designee may administratively suspend from practice before the immigration judges and the Board any attorney or accredited representative who fails to provide the following required registration information: name, business address(es), business telephone number(s), date of birth, email address, bar admission information (if applicable), and recognized organization (if applicable), or who, after having provided that information, fails to present photo identification or comply with any other validation requirements implemented by the Director. After such a system has been established, an immigration judge may, under extraordinary and rare circumstances, permit an unregistered attorney or accredited representative to appear at one hearing if the immigration judge first acquires from the attorney or accredited representative, on the record, the required registration information. An unregistered attorney or accredited representative who is permitted to appear at a hearing in such circumstances must complete the electronic registration process without delay after the hearing at which he or she is permitted to appear.

[40 FR 23271, May 29, 1975, as amended at 53 FR 7728, Mar. 10, 1988; 55 FR 49251, Nov. 27, 1990; 61 FR 53610, Oct. 15, 1996; 62 FR 23635, May 1, 1997; 73 FR 76927, Dec. 18, 2008; 78 FR 19408, Apr. 1, 2013; 81 FR 92367, Dec. 19, 2016; 86 FR 70725, Dec. 13, 2021]

§ 1292.2 [Reserved]

§ 1292.3 Conduct for practitioners and recognized organizations—rules and procedures.

Practitioners, as defined in §1003.101(b) of this chapter, and recognized organizations are subject to the imposition of sanctions as provided in 8 CFR part 1003, subpart G, §1003.101 *et seq.*, and 8 CFR 292.3 (pertaining to practice before DHS).

[81 FR 92367, Dec. 19, 2016]

§ 1292.4

8 CFR Ch. V (1–1–25 Edition)

§ 1292.4 Appearances.

(a) An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case. During Immigration Judge or Board proceedings, withdrawal and/or substitution of counsel is permitted only in accordance with §§1003.16 and 1003.36 respectively. During proceedings before the Service, substitution may be permitted upon the written withdrawal of the attorney or representative of record, or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his or her personal appearance or signature shall constitute a representation that under the provisions of this chapter he or she is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. A notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service.

(b) *Availability of records.* During the time a case is pending, and except as otherwise provided in §103.2(b) of 8 CFR chapter I, a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with §103.10 of 8 CFR chapter I, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he may in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in §103.10 of 8 CFR chapter I.

[23 FR 2673, Apr. 23, 1958, as amended at 32 FR 9633, July 4, 1967; 52 FR 2941, Jan. 29, 1987; 59 FR 1466, Jan. 11, 1994]

§ 1292.5 Service upon and action by attorney or representative of record.

(a) *Representative capacity.* Whenever a person is required by any of the provisions of this chapter to give or be given notice; to serve or be served with any paper other than a warrant of arrest or a subpoena; to make a motion; to file or submit an application or other document; or to perform or waive the performance of any act, such notice, service, motion, filing, submission, performance, or waiver shall be given by or to, served by or upon, made by, or requested of the attorney or representative of record, or the person himself if unrepresented.

(b) *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. Provided, that nothing in this paragraph shall be construed to provide any applicant for admission in either primary or secondary inspection the right to representation, unless the applicant for admission has become the focus of a criminal investigation and has been taken into custody.

[37 FR 11471, June 8, 1972 and 45 FR 81733, Dec. 12, 1980; 46 FR 2025, Jan. 8, 1981; 58 FR 49911, Sept. 24, 1993]

§ 1292.6 Interpretation.

Interpretations of §§1292.1 through 1292.6 will be made by the Board, subject to the provisions of part 1003 of this chapter. Interpretations of §§1292.11 through 1292.20 will be made by the Assistant Director for Policy (or the Assistant Director for Policy's delegate) or the Director.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019; 85 FR 69482, Nov. 3, 2020]

RECOGNITION OF ORGANIZATIONS AND ACCREDITATION OF NON-ATTORNEY REPRESENTATIVES

§ 1292.11 Recognition of an organization.

(a) *In general.* The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the exercise of discretion, may recognize an eligible organization to provide representation through accredited representatives who appear on behalf of clients before the Immigration Courts, the Board, and DHS, or DHS alone. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) will determine whether an organization is eligible for recognition. To be eligible for recognition, the organization must establish that:

(1) The organization is a non-profit religious, charitable, social service, or similar organization that provides immigration legal services primarily to low-income and indigent clients within the United States, and, if the organization charges fees, has a written policy for accommodating clients unable to pay fees for immigration legal services;

(2) The organization is a Federal tax-exempt organization established in the United States;

(3) The organization is simultaneously applying to have at least one employee or volunteer of the organization approved as an accredited representative by the Assistant Director for Policy (or the Assistant Director for Policy's delegate) and at least one application for accreditation is concurrently approved, unless the organization is seeking renewal of recognition and has an accredited representative or is seeking renewal of recognition on inactive status as described in § 1292.16(i);

(4) The organization has access to adequate knowledge, information, and experience in all aspects of immigration law and procedure; and

(5) The organization has designated an authorized officer to act on behalf of the organization.

(b) *Proof of status as non-profit religious, charitable, social service, or similar organization established in the United States and service to low-income and indigent clients.* The organization must submit: A copy of its organizing docu-

ments, including a statement of its mission or purpose; a declaration from its authorized officer attesting that it serves primarily low-income and indigent clients; a summary of the legal services to be provided; if it charges fees for legal services, fee schedules and organizational policies or guidance regarding fee waivers or reduced fees based on financial need; and its annual budget. The organization may also submit additional documentation to demonstrate non-profit status and service to primarily low-income and indigent individuals, such as reports prepared for funders or information about other free or low-cost immigration-related services that it provides (*e.g.*, educational or outreach events).

(c) *Annual budget.* The organization must submit its annual budget for providing immigration legal services for the current year and, if available, its annual budget for providing immigration legal services for the prior year. If the annual budgets for both the current and prior years are unavailable, the organization must submit its projected annual budget for the upcoming year. The annual budget should describe how the organization is funded and include information about the organization's operating expenses and sources of revenue for providing immigration legal services. Sources of revenue may include, but are not limited to, grants, fees, donations, or dues.

(d) *Proof of tax-exempt status.* The organization must submit a copy of its currently valid IRS tax-exemption determination letter, alternative documentation to establish Federal tax-exempt status, or proof that it has applied for Federal tax-exempt status.

(e) *Proof of knowledge, information, and experience.* The organization must submit: A description of the immigration legal services that the organization seeks to offer; a description of the legal resources to which the organization has access; an organizational chart showing names, titles, and supervisors of immigration legal staff members; a description of the qualifications, experience, and breadth of immigration knowledge of these staff members, including, but not limited to resumes, letters of recommendation, certifications, and a list of all relevant,

formal immigration-related trainings attended by staff members; and any agreement or proof of a formal arrangement entered into with non-staff immigration practitioners and recognized organizations for consultations or technical legal assistance.

(f) *Validity period of recognition.* Recognition is valid for a period of six years from the date of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) approval of recognition, unless the organization has been granted conditional recognition. Conditional recognition is granted to an organization that has not been recognized previously, that has Federal tax-exempt status pending, or that has been approved for recognition after recognition was previously terminated pursuant to § 1292.17 or 8 CFR 1003.101 *et seq.* Conditional recognition is valid for two years from the date of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) approval of conditional recognition. Any organization's recognition is subject to being terminated pursuant to § 1292.17 or upon the issuance of disciplinary sanctions (termination or revocation) under 8 CFR 1003.101 *et seq.*

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.12 Accreditation of representatives.

(a) *In general.* Only recognized organizations, or organizations simultaneously applying for recognition, may request accreditation of individuals. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the exercise of discretion, may approve accreditation of an eligible individual as a representative of a recognized organization for either full or partial accreditation. An individual who receives full accreditation may represent clients before the Immigration Courts, the Board, and DHS. An individual who receives partial accreditation may represent clients only before DHS. In the request for accreditation, the organization must specify whether it seeks full or partial accreditation and establish eligibility for accreditation for the individual. To establish eligibility for accreditation, an

organization must demonstrate that the individual for whom the organization seeks accreditation:

(1) Has the character and fitness to represent clients before the Immigration Courts and the Board, or DHS, or before all three authorities. Character and fitness includes, but is not limited to, an examination of factors such as: Criminal background; prior acts involving dishonesty, fraud, deceit, or misrepresentation; past history of neglecting professional, financial, or legal obligations; and current immigration status that presents an actual or perceived conflict of interest;

(2) Is employed by or is a volunteer of the organization;

(3) Is not an attorney as defined in 8 CFR 1001.1(f);

(4) Has not resigned while a disciplinary investigation or proceeding is pending and is not subject to any order disbaring, suspending, enjoining, restraining, or otherwise restricting the individual in the practice of law or representation before a court or any administrative agency;

(5) Has not been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, as defined in 8 CFR 1003.102(h), in any court of the United States, or of any State, possession, territory, commonwealth, or the District of Columbia, or of a jurisdiction outside of the United States; and

(6) Possesses broad knowledge and adequate experience in immigration law and procedure. If an organization seeks full accreditation for an individual, it must establish that the individual also possesses skills essential for effective litigation.

(b) *Request for accreditation.* To establish that an individual satisfies the requirements of paragraph (a) of this section, the organization must submit a request for accreditation (Form EOIR-31A and supporting documents). The request for accreditation must be signed by the authorized officer and the individual to be accredited, both attesting that the individual satisfies these requirements.

(c) *Proof of knowledge and experience.* To establish that the individual satisfies the requirement in paragraph (a)(6) of this section, the organization must

submit with its request for accreditation, at minimum: A description of the individual's qualifications, including education and immigration law experience; letters of recommendation from at least two persons familiar with the individual's qualifications; and documentation of all relevant, formal immigration-related training, including a course on the fundamentals of immigration law, procedure, and practice. An organization must also submit documentation that an individual for whom the organization seeks full accreditation has formal training, education, or experience related to trial and appellate advocacy.

(d) *Validity period of accreditation.* Accreditation is valid for a period of three years from the date of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) approval of accreditation, unless the organization's recognition or the representative's accreditation is terminated pursuant to §1292.17 or the organization or the representative is subject to disciplinary sanctions (termination, revocation, suspension, or disbarment) under 8 CFR 1003.101 *et seq.*

(e) *Change in accreditation.* An organization may request to change the accreditation of a representative from partial to full accreditation at any time during the validity period of accreditation or at renewal. Such a request will be treated as a new, initial request for full accreditation and must comply with this section.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.13 Applying for recognition of organizations or accreditation of representatives.

(a) *In general.* An organization applying for recognition or accreditation of a representative must submit a request for recognition (Form EOIR-31) or a request for accreditation (Form EOIR-31A) to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) with proof of service of a copy of the request on the appropriate USCIS office(s) in the jurisdictions where the organization offers or intends to offer immigration legal services. An organization must submit a separate request for accreditation

(Form EOIR-31A) for each individual for whom it seeks accreditation. To determine whether an organization has established eligibility for recognition or accreditation of a representative, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall review all information contained in the request for recognition or accreditation and may review any publicly available information or any other information that the Office of Policy may obtain or possess about the organization, its authorized officer, or the proposed representative or may have received pursuant to paragraphs (b), (c), and (d) of this section. Unfavorable information obtained by the Assistant Director for Policy (or the Assistant Director for Policy's delegate) that may be relied upon to disapprove a recognition or accreditation request, if not previously served on the organization, shall be disclosed to the organization, and the organization shall be given a reasonable opportunity to respond. Prior to determining whether to approve or disapprove a request for recognition or accreditation, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request additional information from the organization pertaining to the eligibility requirements for recognition or accreditation. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in writing, shall inform the organization and each USCIS office in the jurisdictions where the organization offers or intends to offer immigration legal services of the determination approving or disapproving the organization's request for recognition or accreditation of a representative. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) may, in the exercise of discretion, extend the deadlines provided in this section. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) is authorized to allow requests, notifications, recommendations, and determinations described in this section to be made electronically.

(b) *USCIS recommendation and investigation.* Within 30 days from the date of service of the request for recognition or accreditation, the USCIS office

served with the request may submit to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) a recommendation for approval or disapproval of the request for recognition or accreditation, including an explanation for the recommendation, or may request from the Assistant Director for Policy (or the Assistant Director for Policy's delegate) a specified period of additional time, generally no more than 30 days, in which to conduct an investigation or otherwise obtain relevant information regarding the organization, its authorized officer, or any individual for whom the organization seeks accreditation. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall inform the organization if the Assistant Director for Policy (or the Assistant Director for Policy's delegate) grants a request from USCIS for additional time to conduct an investigation, or if, in the exercise of discretion, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) has requested that USCIS conduct an investigation of the organization, its authorized officer, or any individual for whom the organization seeks accreditation. USCIS must submit any recommendation with proof of service of a copy of the recommendation on the organization. Within 30 days of service of an unfavorable recommendation, the organization may file with the Assistant Director for Policy (or the Assistant Director for Policy's delegate) a response to the unfavorable recommendation, along with proof of service of a copy of such response on the USCIS office that provided the recommendation.

(c) *ICE recommendation.* Upon receipt of a request for recognition or accreditation, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request a recommendation or information from ICE in the jurisdictions where the organization offers or intends to offer immigration legal services regarding the organization, its authorized officer, or any individual for whom the organization seeks accreditation. Within 30 days from the date of receipt of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) re-

quest, ICE may make a recommendation or disclose information regarding the organization, its authorized officer, or individuals for whom the organization seeks accreditation. ICE must submit any recommendation with proof of service of a copy of the recommendation on the organization. Within 30 days of service of an unfavorable recommendation, the organization may file with the Assistant Director for Policy (or the Assistant Director for Policy's delegate) a response to the unfavorable recommendation, along with proof of service of a copy of such response on the ICE office that provided the recommendation. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in writing, shall inform ICE of the determination approving or disapproving the organization's request for recognition or accreditation of a representative.

(d) *EOIR investigation.* Upon receipt of a request for recognition or accreditation, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request that the EOIR disciplinary counsel or anti-fraud officer conduct an investigation into the organization, its authorized officer, or any individual for whom the organization seeks accreditation. Within 30 days from the date of receipt of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) request, the EOIR disciplinary counsel or anti-fraud officer may disclose to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) information, including complaints, preliminary inquiries, warning letters, and admonitions, relating to the organization, its authorized officer, or any individual for whom the organization seeks accreditation.

(e) *Finality of decision.* The Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to approve a request for recognition or accreditation is final. An organization whose request for recognition or accreditation was disapproved may make one request for reconsideration of the disapproval within 30 days of the determination. An organization whose request for recognition or accreditation was disapproved, or whose

request for reconsideration after disapproval and, if applicable, request for administrative review pursuant to § 1292.18 was denied, may submit a new request for recognition or accreditation at any time unless otherwise prohibited.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.14 Reporting, recordkeeping, and posting requirements for recognized organizations.

(a) *Duty to report changes.* A recognized organization has a duty to promptly notify the Assistant Director for Policy (or the Assistant Director for Policy's delegate) in writing or electronically of changes in the organization's contact information, changes to any material information the organization provided in Form EOIR-31, Form EOIR-31A, or the documents submitted in support thereof, or changes that otherwise materially relate to the organization's eligibility for recognition or the eligibility for accreditation of any of the organization's accredited representatives. These changes may include alterations to: The organization's name, address, telephone number, Web site address, email address, or the designation of the authorized officer of the organization; an accredited representative's name or employment or volunteer status with the organization; and the organization's structure, including a merger of organizations that have already been individually accorded recognition, or a change in non-profit or Federal tax-exempt status.

(b) *Recordkeeping.* A recognized organization must compile each of the following records in a timely manner, and retain them for a period of six years from the date the record is created, as long as the organization remains recognized:

(1) The organization's immigration legal services fee schedule, if the organization charges any fees for immigration legal services, for each office or location where such services are provided; and

(2) An annual summary of immigration legal services provided by the organization, which includes: The total number of clients served (whether through client intakes, applications

prepared and filed with DHS, cases in which its attorneys or accredited representatives appeared before the Immigration Courts or, if applicable, the Board, or referrals to attorneys or other organizations) and clients to whom it provided services at no cost; a general description of the immigration legal services and other immigration-related services (*e.g.*, educational or outreach events) provided; a statement regarding whether services were provided pro bono or clients were charged in accordance with a fee schedule and organizational policies or guidance regarding fee waivers and reduced fees; and a list of the offices or locations where the immigration legal services were provided. The summary should not include any client-specific or client-identifying information. The Office of Policy may require the organization to submit such records to it or DHS upon request.

(c) *Posting.* The Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall have the authority to issue public notices regarding recognition and accreditation and to require recognized organizations and accredited representatives to post such public notices. Information contained in the public notices shall be limited to: The names and validity periods of a recognized organization and its accredited representatives, the requirements for recognition and accreditation, and the means to complain about a recognized organization or accredited representative.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.15 Extension of recognition and accreditation to multiple offices or locations of an organization.

Upon approving an initial request for recognition or a request for renewal of recognition, or at any other time, the Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) discretion, may extend the recognition of an organization to any office or location where the organization offers services. To request extension of recognition, an organization

that is seeking or has received recognition must submit a Form EOIR-31 that identifies the name and address of the organization's headquarters or designated office and the name and address of each other office or location for which the organization seeks extension of recognition. The organization must also provide a declaration from its authorized officer attesting that it periodically conducts inspections of each such office or location, exercises supervision and control over its accredited representatives at those offices and locations, and provides access to adequate legal resources at each such office or location. The Office of Policy may require an organization to seek separate recognition for an office or location of the organization, for example, when a subordinate office or location has distinct operations, management structure, or funding sources from the organization's headquarters. The Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to extend recognition to the offices or locations identified in Form EOIR-31 permits the organization's accredited representatives to provide immigration legal services out of those offices or locations. The Office of Policy will post the address of each office or location to which recognition has been extended on the roster of recognized organizations and accredited representatives. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) is authorized to allow requests and determinations described in this section to be made electronically.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.16 Renewal of recognition and accreditation.

(a) *In general.* To retain its recognition and the accreditation of its representatives after the conclusion of the validity period specified in § 1292.11(f) or § 1292.12(d), an organization must submit a request for renewal of its recognition or the accreditation of its representatives (Form EOIR-31, Form EOIR-31A, and supporting documents). In the exercise of discretion, as provided in paragraph (i) of this section, the Assistant Director for Policy (or

the Assistant Director for Policy's delegate) may approve an organization's request for renewal of recognition without a currently approved accredited representative.

(b) *Timing of renewal*—(1) *Recognition.* An organization requesting renewal of recognition must submit the request on or before the sixth anniversary date of the organization's last approval or renewal of recognition or, for a conditionally recognized organization, on or before the second anniversary of the approval date of the conditional recognition. Any request must include proof of service of a copy of the request on the appropriate USCIS office(s) in the jurisdictions where the organization offers or intends to offer immigration legal services.

(2) *Accreditation.* An organization requesting renewal of accreditation of its representative must submit the request on or before the third anniversary date of the representative's last approval or renewal of accreditation, with proof of service of a copy of the request on the appropriate USCIS office(s) in the jurisdictions where the organization offers or intends to offer immigration legal services.

(3) The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) discretion, may grant additional time to submit a request for renewal or accept a request for renewal filed out of time. The recognition of the organization and the accreditation of any representatives for whom the organization timely requests renewal shall remain valid pending the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) consideration of the renewal requests, except in the case of an interim suspension pursuant to 8 CFR 1003.111.

(c) *Renewal requirements*—(1) *Recognition.* The request for renewal of recognition must establish that the organization remains eligible for recognition under § 1292.11(a), include the records specified in § 1292.14(b) regarding fee schedules and the summary of immigration legal services provided that the organization compiled since the last approval of recognition, and

describe any unreported changes that impact eligibility for recognition from the date of the last approval of recognition.

(2) *Accreditation.* Each request for renewal of accreditation must establish that the individual remains eligible for accreditation under § 1292.12(a) and has continued to receive formal training in immigration law and procedure commensurate with the services the organization provides and the duration of the representative's accreditation.

(d) *Recommendations and investigations.* Each USCIS office served with a request for renewal of recognition or a request for renewal of accreditation may submit to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) a recommendation for approval or disapproval of that request pursuant to § 1292.13(b). The Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request a recommendation from ICE or an investigation from the EOIR disciplinary counsel or anti-fraud officer, pursuant to § 1292.13(c) and (d).

(e) *Renewal process.* The Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall review all information contained in the requests and may review any publicly available information or any other information that the Office of Policy may possess about the organization, its authorized officer, or any individual for whom the organization seeks accreditation or renewal of accreditation or that the Office of Policy may have received pursuant to § 1292.13(b) through (d). Unfavorable information obtained by the Assistant Director for Policy (or the Assistant Director for Policy's delegate) that may be relied upon to disapprove a recognition or accreditation request, if not previously served on the organization, shall be disclosed to the organization, and the organization shall be given a reasonable opportunity to respond. Prior to determining whether to approve or disapprove a request for renewal of recognition or accreditation, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request additional information from the organization pertaining to the eligibility requirements for recognition or accredi-

tation. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in writing, shall inform the organization and the appropriate DHS office(s) in the jurisdictions where the organization offers or intends to offer immigration legal services of the determination to approve or disapprove a request for renewal of recognition. If the Assistant Director for Policy (or the Assistant Director for Policy's delegate) renews recognition, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall issue a written determination approving or disapproving each request for accreditation or renewal of accreditation. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) is authorized to allow requests, notifications, recommendations, and determinations described in this section to be made electronically.

(f) *Finality of decision.* The Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to approve a request to renew recognition or accreditation is final. An organization whose request for renewal of recognition or accreditation of its representatives has been disapproved may make one request for reconsideration of the disapproval within 30 days of the determination. The recognition of the organization and the accreditation of any representatives for whom the organization timely requests reconsideration shall remain valid pending the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) consideration of the reconsideration request, except in the case of an interim suspension pursuant to 8 CFR 1003.111. An organization whose recognition or accreditation of its representatives is terminated because the organization's request to renew recognition or accreditation is disapproved or whose request for reconsideration after disapproval and, if applicable, request for administrative review pursuant to § 1292.18 was denied, may submit a new request for recognition and accreditation at any time unless otherwise prohibited.

(g) *Validity period of recognition and accreditation after renewal.* After renewal of recognition, the recognition of the organization is valid for a period of

six years from the date of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to renew recognition, unless the organization's recognition is terminated pursuant to § 1292.17 or the organization is subject to disciplinary sanctions (*i.e.*, termination or revocation) under 8 CFR 1003.101 *et seq.* After renewal of accreditation, the accreditation of a representative is valid for a period of three years from the date of the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to renew accreditation, unless the organization's recognition or the representative's accreditation is terminated pursuant to § 1292.17 or the organization or the representative is subject to disciplinary sanctions (termination, revocation, suspension, or disbarment) under 8 CFR 1003.101 *et seq.*

(h) *Organizations and representatives recognized and accredited prior to January 18, 2017—(1) Applicability.* An organization or representative that received recognition or accreditation prior to January 18, 2017, through the Board under former § 1292.2 is subject to the provisions of this part. Such an organization or representative shall continue to be recognized or accredited until the organization is required to request renewal of its recognition and accreditation of its representatives as required by paragraphs (h)(2) and (3) of this section and pending the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination on the organization's request for renewal if such a request is timely made, unless the organization's recognition or the representative's accreditation is terminated pursuant to § 1292.17 or the organization or the representative is subject to disciplinary sanctions (termination, revocation, suspension, or disbarment) under 8 CFR 1003.101 *et seq.*

(2) *Renewal of recognition.* To retain its recognition, an organization that received recognition prior to January 18, 2017, must request renewal of its recognition pursuant to this section on or before the following dates:

(i) Within 1 year of January 18, 2017, if the organization does not have an ac-

credited representative on the effective date of this regulation;

(ii) Within 2 years of January 18, 2017, if the organization is not required to submit a request for renewal at an earlier date under paragraph (h)(2)(i) of this section, and the organization has been recognized for more than 10 years as of the effective date of this regulation; or

(iii) Within 3 years of January 18, 2017, if the organization is not required to submit a request for renewal at an earlier date under paragraph (h)(2)(i) or (ii) of this section.

(3) *Renewal of accreditation.* To retain the accreditation of its representatives who were accredited prior to January 18, 2017, an organization must request renewal of accreditation of its representatives on or before the date that the representative's accreditation would have expired under the prior rule.

(i) *Inactive status.* An organization shall be placed on inactive status if it has no currently approved accredited representative, and it promptly notified the Office of Policy that it no longer has an accredited representative, as required by § 1292.14(a). An organization on inactive status is precluded from providing immigration legal services unless it has an attorney on staff. An organization shall be on inactive status for two years from the date the organization is placed on inactive status in order for the organization to apply for and have approved the accreditation of one or more representatives. If an organization on inactive status is subject to renewal while on inactive status, the organization must request renewal of recognition at the time required for renewal. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) discretion, may approve a request to renew an organization's recognition without a currently approved accredited representative, provided that the organization satisfies the renewal requirements under § 1292.16(c)(1) and attests that it intends to apply for and have approved the accreditation of one or more representatives within two

years from the date of renewal. An organization renewed under such circumstances shall be on inactive status for two years from the date of renewal in order for the organization to apply for and have approved the accreditation of one or more representatives. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) discretion, may grant an organization additional time on inactive status beyond the time limits provided in this paragraph.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.17 Administrative termination of recognition and accreditation.

(a) *In general.* The Assistant Director for Policy (or the Assistant Director for Policy's delegate) may administratively terminate an organization's recognition or a representative's accreditation and remove the organization or representative from the recognition and accreditation roster. Prior to issuing a determination to administratively terminate recognition or accreditation, the Assistant Director for Policy (or the Assistant Director for Policy's delegate) may request, in writing or electronically, information from the organization, representative, DHS, or EOIR, regarding the bases for termination. The Assistant Director for Policy (or the Assistant Director for Policy's delegate), in writing or electronically, shall inform the organization or the representative, as applicable, of the determination to terminate the organization's recognition or the representative's accreditation, and the reasons for the determination.

(b) *Bases for administrative termination of recognition.* The bases for termination of recognition under this section are:

(1) An organization did not submit a request to renew its recognition at the time required for renewal;

(2) An organization's request for renewal of recognition is disapproved or request for reconsideration after disapproval and if applicable, request for administrative review pursuant to § 1292.18 is denied;

(3) All of the organization's accredited representatives have been terminated pursuant to this section or suspended or disbarred pursuant to 8 CFR 1003.101 *et seq.*, and the organization is not on inactive status as described in § 1292.16(i);

(4) An organization submits a written request to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) for termination of its recognition;

(5) An organization fails to comply with its reporting, recordkeeping, or posting requirements under § 1292.14, after being notified of the deficiencies and having an opportunity to respond;

(6) An organization fails to maintain eligibility for recognition under § 1292.11, after being notified of the deficiencies and having an opportunity to respond; or

(7) An organization on inactive status fails to have an individual approved as an accredited representative within the time provided under § 1292.16(i).

(c) *Bases for administrative termination of accreditation.* The bases for termination of accreditation under this section are:

(1) An individual's organization has had its recognition terminated pursuant to this section or terminated or revoked pursuant to 8 CFR 1003.101 *et seq.*;

(2) An organization does not submit a request for renewal of the individual's accreditation at the time required for renewal;

(3) An organization's request for renewal of an individual's accreditation is disapproved or request for reconsideration after disapproval and, if applicable, request for administrative review pursuant to § 1292.18, is denied;

(4) An accredited representative submits a written request to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) for termination of the representative's accreditation;

(5) An organization submits a written request to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) for termination of the accreditation of one or more of its representatives; or

(6) An individual fails to maintain eligibility for accreditation under

§ 1292.18

§ 1292.12, after the individual's organization has been notified of the deficiencies and has had an opportunity to respond.

(d) *Request for reconsideration.* An organization whose recognition is terminated pursuant to paragraph (b)(5) or (6) of this section or the accreditation of its representative(s) is terminated pursuant to paragraph (c)(6) of this section may make one request for reconsideration of the disapproval within 30 days of the determination. The recognition of the organization and the accreditation of any representatives for whom the organization timely requests reconsideration shall remain valid pending the Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) consideration of the reconsideration request. The Assistant Director for Policy (or the Assistant Director for Policy's delegate) is authorized to allow requests and determinations described in this paragraph to be made electronically.

(e) *Effect of administrative termination of recognition.* The Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to terminate recognition is final as of the date of service of the administrative termination notice. Upon service or electronic delivery of an administrative termination of recognition notice to the organization's accredited representatives by the Office of Policy, the organization's representatives shall no longer be authorized to represent clients before the Immigration Courts, the Board, or DHS on behalf of that organization, but the notice shall not affect an individual's accreditation through another recognized organization unless otherwise specified. An organization whose recognition is terminated may submit a new request for recognition at any time after its termination unless otherwise prohibited.

(f) *Effect of administrative termination of accreditation.* The Assistant Director for Policy's (or the Assistant Director for Policy's delegate's) determination to terminate accreditation is final as of the date of service of the administrative termination notice. Upon service or electronic delivery of an administrative termination of accreditation notice to an accredited representative

8 CFR Ch. V (1–1–25 Edition)

by the Office of Policy, the individual shall no longer be authorized to represent clients before the Immigration Courts, the Board, or DHS on behalf of that organization, but the notice does not affect the individual's accreditation through another organization unless specified in the determination. An organization may submit a request for accreditation on behalf of any individual whose accreditation has been terminated unless otherwise prohibited.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.18 Administrative review of denied requests for reconsideration.

(a) *Authority of the Director.* The Director has the discretionary authority to review a request for reconsideration pursuant to § 1292.13(e), § 1292.16(f), or § 1292.17(d) that has been denied.

(1) An organization whose request for reconsideration pursuant to § 1292.13(e), § 1292.16(f), or § 1292.17(d) has been denied may request administrative review from the Director within ten (10) days of the denial, identifying the alleged factual or legal errors in the underlying determination. The request for administrative review shall be submitted to the Assistant Director for Policy (or the Assistant Director for Policy's delegate), who will forward the request to the Director.

(2) The Director may review a request for reconsideration pursuant to § 1292.13(e), § 1292.16(f), or § 1292.17(d) that has been denied on the Director's own initiative by issuing a notification of administrative review within ten (10) days of the denial. This notification shall state the issues to be reviewed.

(3) The recognition of the organization and the accreditation of any representatives that are subject to administrative review as described in this section shall remain valid pending the Director's consideration of the request, except in the case of an interim suspension pursuant to 8 CFR 1003.111.

(b) *Review.* The Director shall review the record before the Office of Policy and the organization's request for administrative review, and, in the Director's discretion, may request additional filings from the organization. The Director may affirm the denial of

the request for reconsideration or vacate the denial and return the matter to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) for further action consistent with the Director's determination. The Director may not approve a request for recognition or accreditation or renewal thereof.

(c) *Referral of cases to the Attorney General.* The Director will refer to the Attorney General for review of decisions pursuant to this section in all cases that the Attorney General directs the Director to refer to him or that the Director believes should be referred to him.

(d) *Decisions as precedents.* The Director, in his discretion, may cause reconsideration decisions by the OLAP Director pursuant to § 1292.13(e), § 1292.16(f), or § 1292.17(d), or decisions by the Director pursuant to this section to be published as precedents in the same manner as decisions of the Board and the Attorney General. Such decisions by the OLAP Director, except as overruled by the Director, and such decisions by the Director, except as overruled by the Attorney General, will serve as precedents in all proceedings under part 1292 involving the same issue or issues.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019; 84 FR 31470, July 2, 2019; 85 FR 69482, Nov. 3, 2020]

§ 1292.19 Complaints against recognized organizations and accredited representatives.

(a) *Filing complaints.* Any individual may submit a complaint to EOIR or DHS that a recognized organization or accredited representative has engaged in behavior that is a ground of termination or otherwise contrary to the public interest. Complaints must be submitted in writing or on Form EOIR-44 to the EOIR disciplinary counsel or DHS disciplinary counsel and must state in detail the information that supports the basis for the complaint, including, but not limited to: The name and address of each complainant; the name and address of each recognized organization and accredited representative that is a subject of the complaint; the nature of the conduct or

behavior; the individuals involved; and any other relevant information. EOIR disciplinary counsel and DHS disciplinary counsel shall notify each other of any complaint that pertains, in whole or in part, to a matter involving the other agency. EOIR may authorize that complaints submitted to the EOIR disciplinary counsel may be made electronically.

(b) *Preliminary inquiry.* Upon receipt of the complaint, the EOIR disciplinary counsel shall initiate a preliminary inquiry. If a complaint is filed by a client or former client of a recognized organization or any of its accredited representatives, the complainant waives the attorney-client privilege and any other privilege relating to the representation to the extent necessary to conduct a preliminary inquiry and any subsequent proceedings based thereon. If the EOIR disciplinary counsel determines that a complaint is without merit, no further action will be taken. The EOIR disciplinary counsel may also, in the disciplinary counsel's discretion, dismiss a complaint if the complainant fails to comply with reasonable requests for information or documentation. If the EOIR disciplinary counsel determines that a complaint has merit, the EOIR disciplinary counsel may disclose information concerning the complaint or the preliminary inquiry to the Assistant Director for Policy (or the Assistant Director for Policy's delegate) pursuant to 8 CFR 1003.108(a)(3) or initiate disciplinary proceedings through the filing of a Notice of Intent to Discipline pursuant to 8 CFR 1003.105. If a complaint involves allegations that a recognized organization or accredited representative engaged in criminal conduct, the EOIR disciplinary counsel shall refer the matter to DHS or the appropriate United States Attorney, and if appropriate, to the Inspector General, the Federal Bureau of Investigation, or other law enforcement agency.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]

§ 1292.20

8 CFR Ch. V (1–1–25 Edition)

§ 1292.20 Roster of recognized organizations and accredited representatives.

The Assistant Director for Policy (or the Assistant Director for Policy's delegate) shall maintain a roster of recognized organizations and their accred-

ited representatives. An electronic copy of the roster shall be made available to the public and updated periodically.

[81 FR 92367, Dec. 19, 2016, as amended at 84 FR 44542, Aug. 26, 2019]