

a certified copy of the original record accessed by the official having legal custody of the record or by an authorized deputy.

1292.3004. Supp. 12, 1292, as amended at 54 FR 5689, Supp. 25, 1292, at 54 FR 4981, 2004, 2001

**PART 1292—REPRESENTATION AND APPEALS**

1292.1 Representation of others. 1292.2 Organizations qualified for recognition, requirements for recognition, withdrawal of recognition, accreditation of representatives, removal of representatives, procedure for recognition of representatives. 1292.3 Removal of representatives. 1292.4 Appointment of representatives. 1292.5 Disputes over representation. 1292.6 Disputes over representation.

1292.1001. Supp. 12, 1292, as amended at 54 FR 5689, Supp. 25, 1292, at 54 FR 4981, 2004, 2001

**1292.1 Representation of others.**

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

(1) Attorney in the United States. Any attorney as defined in §1501.1(d) of this chapter.

(2) Law students and law graduates not yet admitted to the bar. A law student who is enrolled in an accredited law school, or a law graduate 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 a faculty member, 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 appearing 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 a licensed attorney or accredited representative and that he or she is appearing without direct or indirect remuneration from the alien he or she represents; and

(iv) The law student's or law graduate's appearance is permitted by the official before whom he or she wishes to appear (namely an immigration judge, district director, office director, regional director, the Commissioner, or the Board). The official or details may require that a law student be accompanied by the supervising faculty member, attorney, or accredited representative.

(3) Reputably individual. 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, in a matter of administrative division, in cases where adequate representation would not otherwise be available; and

(iv) His appearance is permitted by the official before whom he wishes to appear (namely, a special inquiry officer, district director, office director, 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 holder thereof out to the public as qualified to do so.

(4) Accredited representative. A person representing an organization described in §1292.2 of this chapter who has been accredited by the Board.

(5) Accredited official. An accredited official, in the United States, of the government in which an alien owns, inherits, or in the official capacity and with the alien's consent.

1108

(6) Attorneys outside the United States. An attorney other than one described in §1501.1(d) of this chapter who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice. Provided that, unless representing persons only in matters outside the geographical conditions of the United States as defined in section 101(a)(20) of the Act and that the Service official before whom habeas corpus to appear allows such representation as a matter of discretion.

(7) Persons formerly employed to produce a person, other than a representative of an organization described in §1292.2 of this chapter, who on December 23, 1962, was authorized to practice before the Board and the Service may continue to act as a representative, subject to the provisions of §1292.2 of this chapter.

(8) 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 46.126-1.

(9) American citizen. 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.

(10) Except as set forth in this section, no other person or persons shall represent others in any case.

1292.2 Organizations qualified for recognition. Requirements for recognition, withdrawal of recognition, accreditation of representatives, removal of representatives.

(a) Qualifications of organizations. A non-profit religious, charitable, social service, or similar organization established in the United States and recognized as such by the Board may designate a representative or representatives to practice before the Service alone or the Service and the Board (including practice before the Immigration Court). Such organization must

establish to the satisfaction of the Board that:

(1) It makes only nominal charges and assumes no economic membership dues for purposes of its activities; and

(2) It has at its disposal adequate knowledge, information and experience.

(b) Request for recognition. An organization having the qualifications prescribed in paragraph (a) of this section may file an application for recognition on a Form O-97 directly with the Board, along with proof of service of a copy of the application on the district director having jurisdiction over the case, in which the application is located. The district director, within 30 days from the date of service, shall forward to the Board a recommendation for approval or disapproval of the application and the reasons therefor, or request a specified period of time in which to conduct an investigation or otherwise obtain relevant information regarding the applicant. The district director shall include proof of service of a copy of such recommendation or request on the organization. The organization shall have 30 days in which to file a response with the Board to a recommendation by a district director that is other than favorable, along with proof of service of a copy of such response on the district director. If the Board approves a request for time to conduct an investigation, or in the discretion remains the application to the district director for further information, the organization shall be advised of the time granted for such purpose. The Service shall promptly forward the results of any investigation or inquiry to the Board, along with its recommendations for approval or disapproval and the reasons therefor, and proof of service of a copy of the notification on the organization. The organization shall have 30 days from the date of such service to file a response with the Board to any matters raised therein, with proof of service of a copy of the response on the district director. Requests for extension of filing time must be submitted in writing with the reasons therefor and may be granted by the Board in its discretion. Once a request may be heard before the Board in its discretion at such date and time as

1292.3 Removal of representatives.

(a) Grounds for removal. A representative of an organization described in §1292.2 of this chapter who has been accredited by the Board may be removed from accreditation if the Board determines that the representative has engaged in unauthorized practice or preparation, or holder thereof out to the public as qualified to do so.

(b) Procedure for removal. The Board may remove a representative of an organization described in §1292.2 of this chapter who has been accredited by the Board if the Board determines that the representative has engaged in unauthorized practice or preparation, or holder thereof out to the public as qualified to do so.

(c) Appeal. A representative of an organization described in §1292.2 of this chapter who has been accredited by the Board may appeal the Board's decision to remove the representative to the Board.

(d) Effect of removal. The removal of a representative of an organization described in §1292.2 of this chapter who has been accredited by the Board shall not affect the accreditation of any other representative of the organization.

(e) Reinstatement. A representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board may apply for reinstatement to the Board.

(f) Appeal. A representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board may appeal the Board's decision to remove the representative to the Board.

(g) Effect of reinstatement. The reinstatement of a representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board shall not affect the accreditation of any other representative of the organization.

(h) Reinstatement. A representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board may apply for reinstatement to the Board.

(i) Appeal. A representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board may appeal the Board's decision to remove the representative to the Board.

(j) Effect of reinstatement. The reinstatement of a representative of an organization described in §1292.2 of this chapter who has been removed from accreditation by the Board shall not affect the accreditation of any other representative of the organization.

the Board may direct. The organization and Service shall be informed by the Board of the action taken regarding an application. Any recognized organization shall promptly notify the Board of any changes in its name, address, or public telephone number.

(c) Withdrawal of recognition. The Board may withdraw the recognition of any organization which has failed to maintain the qualifications required by § 1292.2(a). Withdrawal of recognition may be accomplished in accordance with the following procedure:

(1) The Service, by the district director within whose jurisdiction the organization is located, may conduct an investigation into any organization it believes no longer meets the standards for recognition.

(2) If the investigation establishes to the satisfaction of the district director that withdrawal proceedings should be instituted, he shall cause a written statement of the grounds upon which withdrawal is sought to be served upon the organization, with notice to show cause why the recognition should not be withdrawn. The notice will call upon the organization to appear before a special inquiry officer for a hearing at a time and place stated, not less than 30 days after service of the notice.

(3) The special inquiry officer shall hold a hearing, receive evidence, make findings of fact, state his recommendations, and forward the complete record to the Board.

(4) The organization and the Service shall have the opportunity of appearing at oral argument before the Board at a time specified by the Board.

(5) The Board shall consider the entire record and render its decision. The order of the Board shall constitute the final disposition of the proceedings.

(d) Accreditation of representatives. An organization recognized by the Board under paragraph (b) of this section may apply for accreditation of persons of good moral character as its representatives. An organization may apply to have a representative accredited to practice before the Service alone or the Service and the Board (including practice before Immigration judges). An application for accreditation shall fully set forth the nature and extent of the proposed representative's experience

and knowledge of immigration and naturalization law and procedure and the category of accreditation sought. The individual may submit an application on his or her own behalf. An application shall be filed directly with the Board, along with proof of service of a copy of the application on the district director having jurisdiction over the area in which the requesting organization is located. The district director, within 30 days from the date of service, shall forward to the Board a recommendation for approval or disapproval of the application and the reasons therefor, or request a specified period of time in which to conduct an investigation or otherwise obtain relevant information regarding the applicant. The district director shall include proof of service of a copy of such recommendation or request on the organization. The organization shall have 30 days in which to file a response with the Board to a recommendation by a district director that is other than favorable, with proof of service of a copy of such response on the district director. If the Board approves a request for time to conduct an investigation, or if the district director requests the application to the district director for further information, the organization shall be advised of the time granted for such purpose. The district director shall promptly forward the results of any investigation or inquiry to the Board, along with a recommendation for approval or disapproval and the reasons therefor, and proof of service of a copy of the submission on the organization. The organization shall have 30 days from the date of service of its response with the Board to any matters raised therein, with proof of service of a copy of the response on the district director. Requests for extensions of filing times must be submitted in writing with the reasons therefor and may be granted by the Board in its discretion. Oral argument may be heard before the Board in its discretion at such date and time as the Board may direct. The Board may approve or disapprove an application in whole or in part, and shall inform the organization and the district director of the action taken with regard to an application. The accreditation of a representative shall be

valid for a period of three years only; however, the accreditation shall remain valid pending Board consideration of an application for renewal of accreditation. If the application is filed at least 60 days before the third anniversary of the date of the Board's prior accreditation of the representative, the accreditation terminates when the Board's recognition of the organization ceases for any reason or when the representative's employment or other connection with the organization ceases. The organization shall promptly notify the Board of such changes.

(e) Roster. The Board shall maintain an alphabetical roster of recognized organizations and their accredited representatives. A copy of the roster shall be furnished to the Commissioner and he shall be advised from time to time of changes therein.

§ 1292.3 Professional conduct for practitioners—Rules and procedures.

(a) General provisions—(1) Authority to act. An adjudicating official of the Board of Immigration Appeals (the Board) may impose disciplinary sanctions against any practitioner. If it finds it to be in the public interest to do so, it will be in the public interest to impose disciplinary sanctions against a practitioner who is adjudicated to practice before the Service when such person has engaged in criminal, unethical, or unprofessional conduct, or in previous behavior, as set forth in § 1200.102 of this chapter. In accordance with the disciplinary provisions set forth in part 1200 of this chapter, an adjudicating official or the Board may impose any of the following disciplinary sanctions:

- (i) Expulsion, which is permanent, from practice before the Board and the Immigration Courts or the Service, or before all three workplaces;
- (ii) Suspension, including immediate suspension, from practice before the Board and the Immigration Courts or the Service, or before all three workplaces;
- (iii) Public or private censure; or

(iv) Such other disciplinary sanctions as the adjudicating official or the Board deems appropriate.

(b) Persons subject to sanctions. Persons subject to sanctions include any practitioner. A practitioner is any attorney as defined in § 1200.1(4) of this chapter who does not represent the federal government, or any representative as defined in § 1200.1(i) of this chapter. Attorneys employed by the Department of Justice shall be subject to disciplinary punishment to paragraph (1) of this section.

(c) Grounds of discipline as set forth in § 1200.102 of this chapter. It is deemed to be in the public interest for the adjudicating official or the Board to impose disciplinary sanctions as described in paragraph (a)(1) of this section against any practitioner who falls within one or more of the categories enumerated in § 1200.102 of this chapter, with the exception of paragraphs (e) and (f) of that section, but these categories do not constitute the exclusive grounds for which disciplinary sanctions may be imposed in the public interest. Nothing in this regulation should be read to deny that the practitioner's duty to represent zealously his or her client within the bounds of the law.

(d) Immediate suspension and summary disciplinary proceedings. Any practitioner who is notified by the Services of conviction or discipline—(1) Felony. The Office of the General Counsel of the Service shall petition the Board to suspend immediately from practice before the Service any practitioner who has been found guilty of, or pleaded guilty or nolo contendere to, a serious crime, as defined in § 1200.102(b) of this chapter, or who has been debarred or suspended or who is under final ban by, or has resigned with an admission of misconduct from, the highest court of any state, possession, territory, commonwealth, or the District of Columbia, or any Federal court. A copy of the petition shall be forwarded to the Office of the General Counsel of BOIA, which may submit a written request to the Board that entry of any order immediately suspending a practitioner before the Service also apply to the practitioner's authority to practice before the Board or the Immigration Courts. Proof of service on the practitioner of

8 U.S.C.A. § 1362

United States Code Annotated  
Title 8. Aliens and Nationality  
Chapter 12. Immigration and Nationality  
■ Subchapter II. Immigration  
■ Part IX. Miscellaneous

**§ 1362. Right to counsel**

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

8 U.S.C.A. § 1103

United States Code Annotated  
Title 8. Aliens and Nationality  
■ Chapter 12. Immigration and Nationality  
■ Subchapter I. General Provisions

**§ 1103. Powers and duties of the Secretary, the Under Secretary, and the Attorney General**

\* \* \* \*

(g) Attorney General

(1) In general

The Attorney General shall have such authorities and functions under this chapter and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

(2) Powers

The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.