

**AMERICAN IMMIGRATION LAWYERS ASSOCIATION  
USCIS CHICAGO FIELD OFFICE  
QUESTIONS FOR MAY 31, 2017 MEETING  
101 W. CONGRESS PARKWAY  
CHICAGO, IL 60605**

**1. Translators at Interviews**

Members report that the G-1256 Interpreter Form is now being required for interpreters.

- a. Is this being required by all officers and for all types of applications?

Yes, in accordance with the Jan. 17, 2017 memo (PM-602-0125.1), page 3; with the exception of asylum, credible fear, reasonable fear, NACARA, refugee interviews, USCIS interviews overseas, and interpreters that USCIS provides.

- b. Can this form be prepared ahead of time?

Yes, although the form must be signed by the interviewee and the interpreter in the presence of the officer. The Chicago Field Office receptionist will provide a copy of the form in advance of the interview.

- c. Will members receive a copy of the form signed by the officer?

Generally, we would not provide a copy of the signed G-1256. However, once executed, the G-1256 becomes part of the record and would be subject to a FOIA request.

- d. Will members receive a copy if an interpreter is disqualified for any reason?

Generally, we would not provide a copy of the signed G-1256. However, once executed the G-1256 becomes part of the record and would be subject to a FOIA request.

## 2. Policy Memo: The Role and Use of Interpreters in Domestic Field Office Interviews

Please confirm that, pursuant to the January 17, 2017 policy memorandum,<sup>1</sup> local officers may waive restrictions of who may act as an interpreter in all cases except the following:

- a. Attorneys or accredited representatives who have filed a Notice of Appearance as Attorney to represent the applicant, petitioner or beneficiary in the proceeding, and law students working under the attorney or accredited representatives

and

- b. Minors under age of 14.

For all other classifications of potential interpreters including derivatives or family members, these individuals may, under certain circumstances, act as interpreters during interviews at the local office, in the discretion of the adjudicating officer.

As provided in the policy memorandum on p.7, the following individuals may not serve as interpreters; there is no exception for good cause: Attorneys or accredited representatives for the applicant, petitioner or beneficiary who have properly signed the G-28; Individuals under the age of 14.

Where the proposed interpreter is a derivative (e.g., spouse or child) of the interviewee and could obtain an immigration benefit if the interviewee's application or petition is granted, the officer should be particularly vigilant in making his or her determination as to whether the derivative may, nevertheless, be able to meet the impartiality and unbiased requirement. The officer should continue such vigilance throughout the interview for any signs that the interpreter is violating the interpreter's Declaration. However, the officer must not predetermine that a derivative beneficiary is disqualified from serving as an interpreter, due to a conflict of interest, solely because he or she is a derivative beneficiary. See page 6 of the Policy Memorandum.

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<sup>1</sup> "The Role and Use of Interpreters in Domestic Field Office Interviews. PM-602-0125.1, January 17, 2017

### 3. Sworn Statements at Interviews

- a. What is the procedure that an officer should follow when taking sworn statements?

See Adjudicator's Field Manual **15.6 Sworn Statements** for general guidance at <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-2449/0-0-0-2734.html>

- b. When there is a disagreement on sworn testimony, what steps should be taken to ensure that the final statement accurately reflects the testimony provided?

Before signing, the affiant will review the entire statement with the officer and indicate if any changes need to be made. If the affiant makes changes, the affiant will indicate, in the presence of a witness, that he or she authorized any changes and will initial each change. Upon signing, the affiant acknowledges that the document is true and correct.

- c. Should an officer always allow corrections on sworn testimony provided during an interview?

See b. above.

### 4. Phones at Interviews

Members report that their clients are asked to provide their cell phones to officers during interviews? Is this permitted? What are the consequences for refusing the request?

Officers have on occasion asked the Petitioner or Applicant for permission to look at a cell phone for corroborating evidence such as photos or electronic records of bills. There are no adverse consequences if the request is refused. A Request for Evidence (RFE) or Notice of Intent to Deny (NOID) would be issued if appropriate.

### 5. Contacting Applicants/Petitioners with a G-28 on File

Members have reported that their clients are being called directly by officers even where they have a G-28 properly on file. Is this permitted? If not, can officers be reminded to contact an attorney first unless the attorney has consented to direct contact?

Officers will be reminded that they must contact the legal representative first, before contacting the petitioner or applicant.

## 6. I-130 Appeals – Failure to Forward E-27

Can you confirm that form E-27s, submitted concurrently with E-29s are forwarded on to the BIA?

Yes, Form EOIR-27s submitted concurrently with Form EOIR-29 are forwarded to the BIA.

Our members have reported receiving correspondence from the BIA on I-130 appeals requesting that EOIR 27 forms be filed with their office. In a couple of cases, the EOIR summarily dismissed the appeal due to no EOIR 27 being attached.

How does this process work? Is there a possibility for USCIS to join us on an a motion to reopen the appeal where the EOIR 27 was filed with your office, but never forwarded to the BIA?

When Form EOIR-29 appeals are forwarded to the BIA, they are accompanied by a Record of Proceedings (ROP) which contains all documents that were considered in making a decision. The ROP will always include the Form EOIR-29, petitioner's brief (if one was filed), the government's brief, and the Form EOIR-27. If you have proof of filing Form EOIR-27 concurrently with Form EOIR-29 but believe it was not forwarded to the BIA, please bring this matter to the attention of Branch Chief Stacey Summers.

## 7. I-601 Procedure

When an RFE is issued requesting the filing of an I-601 with the appropriate filing fee, the instructions provide the correct filing address is the Chicago lock-box address.

- a. Is the filing at the lock box sufficient or should an additional copy be also dropped off at the second floor at Adjudications?

As stated in the form instructions, Form I-601 must be mailed to the lockbox.

- b. Does the filing of multiple copies (lock box address or on Second Floor) accelerate or delay adjudication?

The multiple filings will not accelerate adjudication and may delay adjudication.

- c. Are they assigned to the same Officer who conducted the adjustment of status interview?

Form I-601 is assigned to the officer that issued the Request for Evidence (RFE) for the waiver.

## 8. 212(h)(1)(A) Adjudication Procedure

- a. Are I-601 waivers filed under section 212(h)(1)(A) processed differently than I-601 waivers filed under section 212(h)(1)(B) ?

For processing of I-601 waivers under section 212(h) please see the USCIS website at: <http://www.uscis.gov/I-601> as well as the instructions for form I-601 at [https://www.uscis.gov/system/files\\_force/files/form/i-601instr.pdf](https://www.uscis.gov/system/files_force/files/form/i-601instr.pdf). See pp. 10-11.

- b. Does the language in Section 212(h)(1)(A)(i) that refers to "...the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for visa, admission, or adjustment of status," mean from the date the criminal offense occurred as indicated on the criminal complaint or indictment, the date of the arrest and not the date of conviction?

We cannot answer this question without knowing more about the facts present in this case. If you have questions about specific cases, please send an email to Branch Chief Pauline Woodson.

## 9. Filing Date v. Final Action Date

Members report receiving denials for I-485 applications when there is a change in USCIS's use of the filing date chart versus the final action date chart. For example, an I-485 based on an approved SIJS petition was properly filed when USCIS was accepting filings using the filing date chart and the priority date was current on that chart. Subsequent to the filing, the Service denied the I-485 because there was no visa available given that the priority date was not current on the final action date chart. Instead of holding the case in abeyance until the priority date became current, the I-485 was denied.

- a. Please confirm that the proper course of action in these situations is for the officer to hold the case in abeyance.

Please bring the case(s) you are referring to, to the attention of Branch Chief Pauline Woodson.

- b. What steps can be taken when an erroneous decision is entered?

Please submit a letter to Branch Chief Pauline Woodson describing the decision and include any supporting documentation. Please note this would not toll the time period within which to file a motion to reopen or reconsider.