



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

February 5, 2018

Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Policy and Strategy  
Chief, Regulatory Coordination Division  
20 Massachusetts Avenue, NW  
Washington, DC 20529-2140

Submitted via: [www.regulations.gov](http://www.regulations.gov)

**Re: USCIS 60-Day Notice and Request for Comments: Notice of Entry of  
Appearance as Attorney or Accredited Representative, Form G-28  
OMB Control Number 1615-0105  
Docket ID No.: USCIS-2008-0037**

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the above-referenced 60-Day Notice and request for comments on the proposed revisions to the Notice of Entry of Appearance as Attorney or Accredited Representative, Form G-28, and its accompanying instructions, published in the Federal Register on December 6, 2017.<sup>1</sup>

AILA is a voluntary bar association of more than 15,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this notice and believe that our members' collective expertise and experience make us particularly well-qualified to offer views that will benefit the public and the government.

### **General Comments**

AILA applauds USCIS for changing the form to allow a photocopied, faxed, or scanned copy of an original handwritten signature. Such a change is long-awaited, in line with modern practices, and will streamline filing procedures for attorneys, petitioners, beneficiaries, and other relevant parties.

---

<sup>1</sup> 82 Fed. Reg. 57604 (Dec. 6, 2017).

Another welcome change to the Form G-28 is the addition of instructions/fields for attorneys or accredited representatives standing in for the attorney or accredited representative of record for a limited purpose. With the recent change in policy requiring an interview for employment-based adjustment of status cases, these changes to the purpose and substance of the Form G-28 will be immensely beneficial to those attending an interview at a USCIS Field Office where only limited representation is necessary. AILA anticipates that this change will prevent confusion in cases where an attorney who is retained only for the purposes of an interview is automatically substituted as new counsel when a new G-28 is provided at the interview.

AILA also appreciates new language on page 1 of the instructions, outlining the purpose of Form G-28 which states, “USCIS, CBP, and ICE will recognize Form G-28 until the conclusion of the matter for which it is entered, unless otherwise notified. You must file a new Form G-28 with the Administrative Appeals Office if you are filing Form I-290B, Notice of Appeal or Motion.” This is an important reminder to attorneys, accredited representatives, applicants, beneficiaries, and petitioners alike and is a helpful addition to the form instructions.

One section of the current and proposed instructions that requires further clarification is the NOTE in the “Specific Instructions,” on page 4 that states: “USCIS will not mail secure identity documents to a private, commercial, or business address in a foreign country. USCIS, however, will mail secure identity documents to a U.S. business address of ***an attorney admitted to practice law outside of the United States*** or to a designated Army/Air Post Office(APO), Fleet Post Office (FPO), or Diplomatic Post Office (DPO) address. USCIS will mail notices and other correspondence to a foreign address.” [Emphasis added.] This language suggests that attorneys practicing law outside of the U.S. may use the Form G-28, which is incorrect. Assuming this section is meant to refer to attorneys who are licensed to practice U.S. law by a U.S. state, but who are based outside of the U.S., the bolded language should be changed to state, “an attorney outside of the United States admitted to practice law in the United States.”

### Comments on Form G-28

AILA welcomes many of the changes to the proposed Form G-28 which provide much-needed clarity for individuals completing the form. The following comments include general suggestions to further improve the form and specific suggested changes to certain fields or sections of the form. The comments generally follow the order of the form.

- Throughout the proposed form, there are references to “Beneficiary or Derivative.” For clarity, those references should be changed to “Principal Beneficiary” and “Derivative Beneficiary,” or something that similarly separates the two types of individuals.
- **Page 1, Part 1:** The proposed form removes the field for the Attorney or Accredited Representative’s fax number. While facsimile may be considered an outdated form of communication, some service centers still utilize fax as a method to communicate with attorneys, and emails can sometimes get lost or filtered into spam folders. The fax number field should be added into the sub-section in Part 1 designated, “Contact Information of Attorney or Accredited Representative.”

- **Page 1, Part 1, Item 3.a. and Page 2, Part 3, 13.a.:** More space should be provided for the Attorney/Accredited Representative's street name and number and the Applicant/Petitioner/Beneficiary or Derivative/Respondent's street name and number. Frequently, the relevant address is a foreign address, and many foreign addresses are longer than both the current version of the form and the proposed form allow.
- **Page 1, Part 1, Items 4 and 5 and Page 2, Part 3, Items 11 and 12:** These sections should be changed to allow more numbers to be entered and so that symbols are accepted. Both the current version of the form and the proposed form do not permit a foreign number with a country code and plus (+) symbol to be entered, so the information must instead be entered in the "Additional Information" section at the end of the form.
- **Page 1, Part 2, Item 3:** A parenthetical explanation should be added (either to the form or the form instructions) explaining that the original attorney or accredited representative of record (if any) will remain the attorney or accredited representative of record in this situation. The box at **Page 1, Part 2, Item 3** would likely be checked if an attorney is appearing for the limited purpose of attending an adjustment of status or other interview on behalf of another attorney, and in this situation, it is important that notices and communications following the interview will continue to be sent to the original attorney.
- **Page 2, Part 3, Items 1.b., 2.b. and 3.b.:** Additional space should be added to each item so that, particularly in situations involving a limited appearance, the appearance can be adequately described. While Page 4 may be used if additional space is needed, the form would be more streamlined if attorneys/accredited representatives were able to describe the specific matter for which they are appearing on Page 2. In addition, additional space in items 1.b., 2.b. and 3.b. would not increase the number of pages overall.
- **Page 2, Part 3, Items 6.a., 6.b., and 6.c.:** AILA welcomes the clarification that the subheading to this section provides: "Information About Applicant, Petitioner, *Beneficiary or Derivative, Respondent, or Authorized Signatory for an Entity*" [amended text in italics]. This change makes it clear that the Family Name, Given Name, and Middle Name fields are to be completed as the authorized signers of an entity when an entity is a petitioner, which is a helpful clarification for corporate petitioners.
- **Page 2, Part 3, Item 4.:** AILA appreciates that the proposed form breaks out the Receipt Number from the information about the applicant/petitioner/beneficiary or derivative/respondent and instead places it in the Notice of Appearance as Attorney or Accredited Representative section. This will be especially helpful in the case of a limited appearance by an attorney or accredited representative.
- **Page 2, Part 3, Item 5:** The option for "Requestor" was removed and replaced with "Beneficiary/Derivative." The option of "Requestor" should be retained to capture the correct categorization of individuals who have retained an attorney or accredited representative to assist them with the submission of a FOIA/Privacy Act request, and

“requestor” should be referenced as appropriate throughout the form and instructions.

- **Page 2, Parts 3 and 4:** The “Part 4” block header should be moved up above “Information about Applicant, Petitioner, Beneficiary or Derivative, Respondent, or Authorized Signatory for an Entity,” as the header specifically refers to the “Applicant Petitioner, Beneficiary or Derivative, or Respondent...Contact Information.”
- Despite the proposed changes that provide some clarity, **Page 3, Part 4** (Options Regarding Receipt of USCIS Notices and Documents) remains complex and difficult to navigate. The section would benefit from additional changes. For example:
  - If an attorney or accredited representative is appearing only for a limited purpose, notices that are issued following that limited purpose would need to go to the original attorney of record. The revised Form G-28 or instructions should clarify that, when reference is made to the “attorney or accredited representative” in Part 4, it would not include the attorney who is appearing for a limited purpose.
  - If revisions to the Form G-28 will include additional options for delivering (1) notices not containing an I-94, (2) notices with an I-94 and (3) secure identity documents, separate subheadings should be established as follows:
    - Options Regarding Receipt of USCIS Notices Not Containing an I-94
    - Options Regarding Receipt of USCIS Notices Containing an I-94
    - Options Regarding Receipt of Secure Identity Documents
- **Page 3, Part 4, Item 3.a.:** This item currently reads “Signature of Applicant, Petitioner, Beneficiary or Derivative, or Respondent.” It should be changed to read “Signature of Applicant, Petitioner, Beneficiary or Derivative, Respondent, or Authorized Signatory for an Entity.” The subheading for this section should also be changed to include an authorized signatory for an entity.

## Conclusion

We appreciate the opportunity comment on the proposed changes, and we look forward to a continuing dialogue with USCIS on these issues.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION