



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

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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)

**Docket ID No. USCIS-2007-0012**

**Re: OMB Control Number 1615-0044**

USCIS 60-Day Notice and Request for Comments: Application for Action on an Approved Application or Petition, Form I-824

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 Application for Action on an Approved Application or Petition, Form I-824, and the accompanying instructions, published in the Federal Register on June 19, 2015.<sup>1</sup>

AILA is a voluntary bar association of more than 14,000 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 60-Day Notice and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

**Certifications, Statements, and Acknowledgements**

USCIS continues to expand the number and length of the various certifications, statements, and acknowledgements on its forms without adequate justification. These certifications, statements, and acknowledgements are lengthy and repetitive and contribute significantly to the ever-increasing size of all USCIS forms. In addition, the attestations are confusing to applicants and petitioners, and appear to be overreaching and unnecessary. We ask that USCIS halt the current

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<sup>1</sup> 80 Fed. Reg. 35388 (June 19, 2015).

practice of adding these lengthy certifications and acknowledgements to all new proposed forms and reevaluate their utility. In particular, USCIS should examine whether the intended goals of the certifications can be met with existing regulations and/or more concise attestations that are less burdensome, easier to understand, and within the scope of USCIS's authority. In addition, we recommend the following changes to the proposed certifications on the new I-824:

***Page 6: Part 6—Preparer's Certification***

AILA is concerned with the expanded language of the preparer's certification. The proposed language reads:

*By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this application on behalf of, at the request of, and with the express consent of the applicant. I completed this application based only on responses the applicant provided to me. After completing the application, I reviewed it and all of the applicant's responses with the applicant, who agreed with every answer on the application. If the applicant supplied additional information concerning a question on the application, I recorded it on the application.*

As currently worded, this certification imposes a burdensome and unnecessary process for preparing and reviewing Form I-824 on the attorney/preparer and applicant. Preparers are already required, under applicable regulations, to attest to the veracity and truth of what is submitted. Under 8 CFR §103.2(a)(2), “[b]y signing the benefit request, the ... petitioner ... certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct.” Moreover, under 8 CFR §1003.102(j)(1), “[t]he signature of a practitioner on any filing [or] application ... constitutes certification by the signer that the signer has read the filing [or] application ... and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact ....” An attorney who engages in frivolous behavior or who knowingly or with reckless disregard makes a false statement of material fact or law is subject to disciplinary sanctions including disbarment or suspension. *See generally* 8 CFR §1003.101–108. Therefore, any concerns about fraud detection and prevention are more than adequately covered in the existing regulations.

Moreover, it is beyond the authority of USCIS to stipulate a specific review procedure for attorneys and their clients and require that it be followed. Therefore, the Preparer's Certification as proposed, unnecessarily impinges on the rights of petitioners and their legal representatives to determine their own legitimate procedures in the preparation of the form.

On August 17, 2015, USCIS published a new Form I-129, Petition for a Nonimmigrant Worker, with an edition date of August 13, 2015. Though the prior two versions of Form I-129 (3/26/15 and 10/23/14) employed Preparer's Declaration language similar to that which is proposed for the I-824, USCIS revised that language in the August 17, 2015 edition so that the Preparer's Declaration currently reads:

*By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this petition on behalf of, at the request of, and with the express consent of the petitioner or authorized signatory. The petitioner has reviewed this completed petition as prepared by me and informed me that all of the information in the form and in the supporting documents is complete, true, and correct.*

We applaud USCIS for taking steps to amend the Preparer's Declaration on Form I-129 and urge the Service to apply similar language across all forms moving forward. The above-referenced language is reasonable and narrowly tailored to serve the goals of detecting and preventing fraud, while allowing the attorney and client to define the scope of their relationship and develop legitimate review procedures without undue interference. Therefore, we ask USCIS to adopt the language in the August 17, 2015 edition of Form I-129 and amend the I-824 Preparer's Certification on Page 6 to read:

*By my signature, I certify, swear, or affirm, under penalty of perjury, that I prepared this application on behalf of, at the request of, and with the express consent of the applicant. The applicant has reviewed this completed application as prepared by me and informed me that all of the information in the form and in the supporting documents is complete, true, and correct.*

***Page 4: Part 4, Applicant's Certification***

The August 17, 2015 version of Form I-129 also includes a slightly modified version of the "Petitioner's Declaration." In implementing the above-recommended changes to the Preparer's Certification on Form I-824, USCIS could also consider amending the last paragraph of the "Applicant's Certification" on Page 4 to include the additional text (in bold):

*I certify, under penalty of perjury, **that I have reviewed this application and that all of the information contained on the application, including all responses to specific questions, and in the supporting documents, is complete, true, and correct.***

**Conclusion**

AILA appreciates the opportunity comment on the proposed changes to the I-824 and instructions, and we look forward to a continuing dialogue with USCIS on these issues.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION