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2 Appearances before the Immigration Court

2.1 Representation Generally

(a) Types of representatives. — The regulations specify who may represent parties in immigration proceedings. See 8 C.F.R. § 1292.1. As a practical matter, there are four categories of people who may present cases in Immigration Court: unrepresented aliens (Chapter 2.2), attorneys (Chapter 2.3), accredited representatives (Chapter 2.4), and certain categories of persons who are expressly recognized by the Immigration Court (Chapters 2.5, 2.8, and 2.9).

No one else is recognized to practice before the Immigration Court. Non-lawyer immigration specialists, visa consultants, and “notarios,” are *not* authorized to represent parties before an Immigration Court.

(b) Entering an appearance. — All representatives must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). Representatives should be sure to use the most current version of the form, which can be found on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. See also Chapter 11(Forms), Appendix E (Forms).

An original Form EOIR-28 must be filed in the following situations:

- the first appearance of the representative, either at a hearing or by filing a pleading, motion, application, or other document
- the filing of a motion to reopen
- the filing of a motion to reopen to rescind an in absentia order
- the filing of a motion to reconsider
- whenever a case is remanded to the Immigration Court
- any change of business address or telephone number for the attorney or representative
- upon reinstatement following an attorney’s suspension or expulsion from practice

See 8 C.F.R. §§1003.17(a), 1003.23(b)(1)(ii), Chapters 4 (Hearings before Immigration Judges), 5 (Motions before the Immigration Court), 10 (Discipline of Practitioners).

Persons appearing without an attorney or representative (“pro se”) should not file a Form EOIR-28.

Note that different forms are used to enter an appearance before an Immigration Court, the Board of Immigration Appeals, and the Department of Homeland Security (DHS). The forms used to enter an appearance before the Board and DHS are as follows:

- the Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals (Form EOIR-27) is used to enter an appearance before the Board
- the Notice of Entry of Appearance of Attorney or Representative (Form G-28) is used to enter an appearance before DHS

The Immigration Court will not recognize a representative using a Form EOIR-27 or a Form G-28.

(c) Notice to opposing party. — In all instances of representation, the Department of Homeland Security must be served with a copy of the Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). See Chapter 3.2 (Service on the Opposing Party).

(d) Who may file. — Whenever a party is represented, the party should submit all filings and communications to the Immigration Court through the representative. See 8 C.F.R. § 1292.5(a). An individual who is not a party to a proceeding may not file documents with the court. See Chapters 5.1(c) (Persons not party to the proceedings), 3.2 (Service on the Opposing Party).

2.2 Unrepresented Aliens (“Pro se” Appearances)

(a) Generally. — An individual in proceedings may represent himself or herself before the Immigration Court.

Many individuals choose to be represented by an attorney or accredited representative. Due to the complexity of the immigration and nationality laws, the Office of the Chief Immigration Judge recommends that those who can obtain qualified professional representation do so. See Chapters 2.3(b) (Qualifications), 2.4 (Accredited Representatives), 2.5 (Law Students and Law Graduates).

(b) Legal service providers. — The Immigration Courts cannot give advice regarding the selection of a representative. However, aliens in proceedings before an Immigration Court are provided with a list of free or low cost legal service providers within the region in which the Immigration Court is located. See 8 C.F.R. §§ 1003.61(a), 1292.2(a). The list is maintained by the Office of the Chief Immigration Judge and contains information on attorneys, bar associations, and certain non-profit organizations willing to provide legal services to indigent individuals in Immigration Court proceedings at little or no cost. The free or low cost legal service providers may not be able to represent every individual who requests assistance.

In addition, all of the lists of free legal service providers nationwide are available on the EOIR website at www.usdoj.gov/eoir.

(c) Address obligations. — Whether represented or not, aliens in proceedings before the Immigration Court must notify the Immigration Court within 5 days of any change in address or telephone number, using the Alien's Change of Address Form (Form EOIR-33/IC). See 8 C.F.R. § 1003.15(d)(2). In many instances, the Immigration Court will send notification as to the time, date, and place of hearing or other official correspondence to the alien's address. If an alien fails to keep address information up to date, a hearing may be held in the alien's absence, and the alien may be ordered removed even though the alien is not present. This is known as an "in absentia" order of removal.

Parties should note that notification to the Department of Homeland Security of a change in address does not constitute notification to the Immigration Court.

(i) Change of address or telephone number. — Changes of address or telephone number must be in writing and *only* on the Alien's Change of Address Form (Form EOIR-33/IC). Unless the alien is detained, *no other means of notification are acceptable*. Changes in address or telephone numbers communicated through pleadings, motion papers, correspondence, telephone calls, applications for relief, or other means will *not* be recognized, and the address information on record will not be changed.

(ii) Form EOIR-33/IC. — The alien should use only the most current version of the Aliens's Change of Address Form (Form EOIR-33/IC). The Form I-33/IC is available at the Immigration Court and on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. See also Chapter 11 (Forms) and Appendix E (Forms). Individuals in proceedings should observe the distinction between the Immigration Court's Change of Address Form (Form EOIR-33/IC) and the Board of Immigration Appeal's Change of Address Form (Form EOIR-33/BIA). The Immigration Courts will not recognize changes in address or telephone numbers

communicated on the Board of Immigration Appeal's Change of Address Form (Form EOIR-33/BIA), and the address information on record will not be changed.

(iii) Motions. — An alien should file an Alien's Change of Address Form (Form EOIR-33/IC) when filing a motion to reopen, a motion to reconsider, or a motion to recalendar. This ensures that the Immigration Court has the alien's most current address when it adjudicates the motion.

(d) Address obligations of detained aliens. — When an alien is detained, the Department of Homeland Security (DHS) is obligated to report the location of the alien's detention to the Immigration Court. DHS is also obligated to report when an alien is moved between detention locations and when he or she is released. See 8 C.F.R. § 1003.19(g).

(i) While detained. — As noted in (d), above, DHS is obligated to notify the Immigration Court when an alien is moved between detention locations. See 8 C.F.R. § 1003.19(g).

(ii) When released. — The Department of Homeland Security is responsible for notifying the Immigration Court when an alien is released from custody. 8 C.F.R. § 1003.19(g). Nonetheless, the alien should file an Alien's Change of Address Form (Form EOIR-33/IC) with the Immigration Court within 5 days of release from detention to ensure that Immigration Court records are current. See Chapter 2.2(c) (Address obligations).

2.3 Attorneys

(a) Right to counsel. — An alien in immigration proceedings may be represented by an attorney of his or her choosing, at no cost to the government. Unlike in criminal proceedings, the government is *not* obligated to provide legal counsel. The Immigration Court provides aliens with a list of attorneys who may be willing to represent aliens for little or no cost, and many of these attorneys handle cases on appeal as well. See Chapter 2.2(b) (Legal service providers). Bar associations and nonprofit agencies can also refer aliens to practicing attorneys.

(b) Qualifications. — An attorney may practice before the Immigration Court only if he or she is a member in good standing of the bar of the highest court of any state, possession, territory, or Commonwealth of the United States, or the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law. See 8 C.F.R. §§ 1001.1(f), 1292.1(a)(1). Any attorney practicing before the Immigration Court who is the subject of such discipline in any

jurisdiction must promptly notify the Executive Office for Immigration Review, Office of General Counsel. See Chapter 10.6 (Duty to Report).

(c) Appearances. — Attorneys must enter an appearance before the Immigration Court by filing a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). See 8 C.F.R. §§ 1003.17(a), 1003.23(b)(1)(ii). A Form EOIR-28 should always be filed in the situations described in Chapter 2.1(b) (Entering an appearance). If submitted with other documents, the Form EOIR-28 should be at the front of the package. See Chapter 3.3(c) (Format). It should *not* be included as an exhibit, as part of an exhibit, or with other supporting materials. In addition, the Form EOIR-28 must be served on the opposing party. See Chapter 3.2 (Service on the Opposing Party). If information is omitted from the Form EOIR-28 or it is not properly completed, the attorney's appearance may not be recognized, and the accompanying filing may be rejected.

(i) Form EOIR-28. — Attorneys should use the most current version of the Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28), which can be found on the Executive Office for Immigration Review (EOIR) website at www.usdoj.gov/eoir. See also Chapter 11 (Forms), Appendix E (Forms). The use of green paper is strongly encouraged. See Chapter 11.2(f) (Form colors).

Attorneys should observe the distinction between the Immigration Courts' Notice of Appearance (Form EOIR-28) and the Board of Immigration Appeal's Notice of Appearance (Form EOIR-27). The Immigration Courts will not recognize an attorney based on a Form EOIR-27, whether filed with the Board or the Immigration Court. Accordingly, when a case is remanded from the Board to the Immigration Court, the attorney must file a new Form EOIR-28.

(ii) Attorney information. — The Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) must bear an individual attorney's current address and the attorney's original signature in compliance with the requirements of Chapter 3.3(b) (Signatures). All information required on the form, including the date, should be typed or printed clearly. Note that Identification Numbers ("EOIR ID numbers") for attorneys and representatives are not currently being issued, and therefore that information does not need to be provided at this time.

(iii) Bar information. — When an attorney is a member of a state bar which has a state bar number or corresponding court number, the attorney must provide that number on the Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). If the attorney has been admitted to more than one state bar, *each and every* state bar to which the attorney has ever

been admitted—including states in which the attorney is no longer an active member or has been suspended, expelled, or disbarred—must be listed and the state bar number, if any, provided.

(iv) Disciplinary information. — In every instance, one of the two boxes regarding disciplinary action (under box 1 of the Form EOIR-28) must be checked. If the attorney is subject to discipline, then the attorney must provide information on the back of the form. (Attorneys may attach an explanatory supplement or other documentation to the form.) An attorney who fails to check one of the two boxes regarding discipline, or fails to provide discipline information, will not be recognized by the Immigration Court and may be subject to disciplinary action.

(d) Limited appearances. — Once an attorney has made an appearance, that attorney has an obligation to continue representation until such time as the alien terminates representation or a motion to withdraw or substitute as counsel has been granted by the Immigration Court. The filing of a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) on behalf of an alien constitutes entrance of appearance for all proceedings, including removal and bond, unless the Immigration Judge specifically allows a limited appearance.

Limited appearances are distinct from appearances “on behalf of,” which are discussed in Chapter 2.3(j) (Appearances “on behalf of”).

(e) Multiple representatives. — Sometimes, an alien may retain more than one attorney at a time. In such cases, *all* of the attorneys are representatives of record, and will all be held responsible as attorneys for the respondent. One of the attorneys is recognized as the primary attorney (notice attorney). All of the attorneys must file Notices of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28), annotated to reflect which attorney is the primary attorney. Only the primary attorney will receive mailings, including notices of hearings, from the Immigration Court. All submissions to the Immigration Court must bear the name of one of the representatives of record and be signed by that attorney. See subsection (c), above. See also Chapter 3.3(b) (Signatures).

(f) Law firms. — Only individuals, not firms or offices, may represent parties before the Immigration Court. In every instance of representation, a named attorney must enter an appearance to act as an attorney of record. In addition, all filings must be signed by an attorney of record. See Chapter 3.3(b) (Signatures). Accordingly, the Immigration Court does not recognize appearances or accept pleadings, motions, briefs, or other filings submitted by a law firm, law office, or other entity if the name and signature of an attorney of record is not included. See subsection (e), above. See also Chapter 3.3(b)(ii) (Law

firms). If, at any time, more than one attorney represents an alien, one of the attorneys must be designated as the primary attorney (notice attorney). See subsection (e), above.

(i) Change in firm. — In the event that an attorney departs a law firm but wishes to continue representing the alien, the attorney must promptly file a new Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28). The new Notice of Appearance must reflect any change of address and apprise the Immigration Court of his or her change in affiliation. The attorney should check the “new address” box in the address block of the new Form EOIR-28, which must be served on the opposing party. See Chapter 3.2 (Service on the Opposing Party).

(ii) Change in attorney. — If the attorney of record leaves a law firm but the law firm wishes to retain the case, another attorney in the firm must file a motion for substitution of counsel. Similarly, if a law firm wishes to reassign responsibility for a case from one attorney to another attorney in the firm, the new attorney must file a motion for substitution of counsel. Until such time as a motion for substitution of counsel is granted, the original attorney remains the alien’s attorney and is responsible for the case. See subsection (i)(i), below.

(g) Service upon counsel. — Service of papers upon counsel of a represented party constitutes service on the represented party. See 8 C.F.R. § 1292.5(a), Chapter 3.2(f) (Representatives and service).

(h) Address obligations of counsel. — Attorneys who enter an appearance before the Immigration Court have an affirmative duty to keep the Immigration Court apprised of their current address and telephone number. See 8 C.F.R. § 1003.15(d)(2). Changes in counsel’s address or telephone number should be made by filing a written notice notifying the Immigration Court of the change of address, including the name of the alien and the alien registration number (“A number”). This written notice should be accompanied by a new Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28) for each case that is pending and *not* by an Alien’s Change of Address Form (Form EOIR–33/IC). The written notice should include the name of the alien and the A number. The attorney also should check the “New Address” box in the address block on the Form EOIR-28.

(i) No compound changes of address. — Attorneys must submit a separate written notice and Notice of Entry of Appearance of Attorney or Representative (Form EOIR-28) for each alien he or she represents. In consolidated cases, the attorney only needs to submit one Form EOIR-28 listing all aliens and their A

numbers. See Chapter 4.21(a) (Consolidated cases). An attorney may not simply submit a list of clients for whom his or her change of address should be entered.

(ii) Address obligations of represented aliens. — Even when an alien is represented, the alien is still responsible for keeping the Immigration Court apprised of his or her address and telephone number. Changes of address or telephone number for the alien may not be made on the Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28) but must be made on the Alien’s Change of Address Form (Form EOIR-33/IC). See Chapter 2.2(c) (Address obligations).

(i) Change in representation. — Changes in representation may be made as described in subsections (i) through (iii), below.

(i) Substitution of counsel. — When an alien wishes to substitute a new attorney for a previous attorney, the new attorney must submit a written or oral motion for substitution of counsel, accompanied by a Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28). See 8 C.F.R. § 1003.17(b), Chapter 2.1(b) (Entering an appearance). If in writing, the motion should be filed with a cover page labeled “MOTION FOR SUBSTITUTION OF COUNSEL” and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should contain the following information:

- the reason(s) for the substitution of counsel, in conformance with applicable state bar and other ethical rules
- evidence that prior counsel has been notified about the motion for substitution of counsel
- evidence of the alien’s consent to the substitution of counsel

If the motion is in writing, the new counsel should serve a copy of the motion and executed Form EOIR-28 on prior counsel as well as the Department of Homeland Security. A Proof of Service of the motion and Form EOIR-28 on prior counsel is sufficient to show that prior counsel has been notified about the motion to substitute counsel.

In adjudicating a motion for substitution of counsel, the time remaining before the next hearing and the reason(s) given for the substitution are taken into consideration. Extension requests based on substitution of counsel are not favored.

If a motion for substitution of counsel is granted, prior counsel need not file a motion to withdraw. However, until a motion for substitution of counsel is granted, the original counsel remains the alien's attorney of record and must appear at all scheduled hearings.

The granting of a motion for substitution of counsel does *not* constitute a continuance of a scheduled hearing. Accordingly, parties must be prepared to proceed at the next scheduled hearing.

(ii) *Withdrawal of counsel.* — When an attorney wishes to withdraw from representing an alien, and the alien has not obtained a new attorney, the attorney must submit a written or oral motion to withdraw. See 8 C.F.R. § 1003.17(b). If in writing, the motion should be filed with a cover page labeled “MOTION TO WITHDRAW AS COUNSEL” and comply with the deadlines and requirements for filing. See Chapter 3 (Filing with the Immigration Court), Appendix F (Sample Cover Page). The motion should contain the following information:

- the reason(s) for the withdrawal of counsel, in conformance with applicable state bar or other ethical rules
- the last known address of the alien
- a statement that the attorney has notified the alien of the request to withdraw as counsel or, if the alien could not be notified, an explanation of the efforts made to notify the alien of the request
- evidence of the alien's consent to withdraw or a statement of why evidence of such consent is unobtainable
- evidence that the attorney notified or attempted to notify the alien, with a recitation of specific efforts made, of (a) pending deadlines; (b) the date, time, and place of the next scheduled hearing; (c) the necessity of meeting deadlines and appearing at scheduled hearings; and (d) the consequences of failing to meet deadlines or appear at scheduled hearings

In adjudicating a motion to withdraw, the time remaining before the next hearing and the reason(s) given for the withdrawal are taken into consideration.

Until a motion to withdraw is granted, the attorney who filed the motion remains the alien's attorney of record and must attend all scheduled hearings.

(iii) Release of counsel. — When an alien elects to terminate representation by counsel, the counsel remains the attorney of record until the Immigration Judge has granted either a motion for substitution of counsel or a motion to withdraw, as appropriate. See subsections (i) and (ii), above.

(j) Appearances “on behalf of.” — Appearances “on behalf of” occur when a second attorney appears on behalf of the attorney of record at a specific hearing before the Immigration Court. The attorney making the appearance need not work at the same firm as the attorney of record. Appearances “on behalf of” are distinct from limited appearances, which are discussed in Chapter 2.3(d) (Limited appearances). Appearances “on behalf of” are permitted as described below.

First, the attorney making the appearance must notify the Immigration Judge on the record that he or she is appearing on behalf of the attorney of record.

Second, the attorney making the appearance must file a Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28) with the Immigration Court and serve it on the opposing party. The Form EOIR-28 must be clearly annotated on the front page to reflect that the attorney is making an appearance on behalf of the attorney of record for a specific hearing. In addition, the date and time of the hearing must be listed.

Third, the appearance on behalf of the attorney of record must be authorized by the Immigration Judge.

At the hearing, the attorney making the appearance may file documents on behalf of the alien. The attorney making the appearance cannot file documents on behalf of the alien at any other time. See Chapters 3.3(b) (Signatures), 3.2 (Service on the Opposing Party). The attorney of record need not file a new Form EOIR-28 after the hearing.

(k) Attorney misconduct. — The Executive Office for Immigration Review has the authority to impose disciplinary sanctions upon attorneys and representatives who violate rules of professional conduct before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security. See Chapter 10 (Discipline of Practitioners). Where an attorney in a case has been suspended from practice before the Immigration Court and the alien has not retained new counsel, the Immigration Court treats the alien as unrepresented. In such a case, all mailings from the Immigration Court, including notices of hearing and orders, are mailed directly to the alien. Any filing from an attorney who has been suspended from practice before the Immigration Court is rejected. See Chapter 3.1(d) (Defective filings).

2.4 Accredited Representatives

An accredited representative is a person who is approved by the Board of Immigration Appeals to represent aliens before the Board, the Immigration Courts, and the Department of Homeland Security. He or she must be a person of good moral character who works for a specific nonprofit religious, charitable, social service, or similar organization which has been recognized by the Board to represent aliens. Accreditation is valid for a period of up to three years and can be renewed. See 8 C.F.R. §§ 1292.1(a)(4), 1292.2(d). Accredited representatives must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28) in order to represent an individual before the Immigration Court. See Chapter 2.3(c) (Appearances). Accredited representatives should be careful to use the most current version of the Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir.

(a) Qualifying organizations. — The Board of Immigration Appeals officially recognizes certain nonprofit religious, charitable, social service, and similar organizations as legal service providers. See 8 C.F.R. § 1292.2(a), Chapter 2.2(b) (Legal Service Providers). To be recognized by the Board, an organization must affirmatively apply for that recognition. Such an organization must establish to the satisfaction of the Board that its fees are only nominal, that it does not assess excessive membership dues for persons given assistance, and that it has at its disposal adequate knowledge, information, and experience in immigration law and procedure. The qualifications and procedures for organizations seeking Board recognition are set forth in the regulations. 8 C.F.R. § 1292.2(a), (b). Questions regarding recognition may be directed to the Executive Office for Immigration Review, Office of the General Counsel. See Appendix B (EOIR Directory).

(b) Qualifying representatives. — The Board of Immigration Appeals accredits persons of good moral character as representatives of qualifying organizations. See 8 C.F.R. § 1292.2(d). Representatives of the recognized organizations are not automatically accredited by the Board. Rather, the recognized organization must affirmatively apply for accreditation on each representative's behalf. See 8 C.F.R. § 1292.2(d). No individual may apply on his or her own behalf.

Accreditation is not transferrable from one representative to another, and no individual retains accreditation upon his or her separation from the recognized organization.

(c) Immigration specialists. — Accredited representatives should not be confused with non-lawyer immigration specialists, visa consultants, and “notarios.” See Chapter 2.7 (Immigration Specialists). Accredited representatives must be expressly accredited by the

Board of Immigration Appeals and must be employed by a nonprofit institution specifically recognized by the Board.

(d) Verification. — To verify that an individual has been accredited by the Board of Immigration Appeals, the public can either:

- consult the listing at www.usdoj.gov/eoir, or
- contact the Executive Office for Immigration Review, Office of the General Counsel (see Appendix B (EOIR Directory))

(e) Applicability of attorney rules. — Except in those instances set forth in the regulations and this manual, accredited representatives are to observe the same rules and procedures as attorneys. See Chapter 2.3 (Attorneys).

(f) Signatures. — Only the accredited representative who is the representative of record may sign submissions to the Immigration Court. An accredited representative, even in the same organization, may not sign or file documents on behalf of another accredited representative. See Chapter 3.3(b) (Signatures).

(g) Representative misconduct. — Accredited representatives must comply with certain standards of professional conduct. See 8 C.F.R. § 1003.101 et seq.

(h) Request to be removed from list of accredited representatives. — An accredited representative who no longer wishes to represent aliens should write to the Chairman of the Board of Immigration Appeals and request to be removed from the list. See Appendix B (EOIR Directory).

2.5 Law Students and Law Graduates

(a) Generally. — Law students and law graduates (law school graduates who are not yet admitted to practice law) may appear before the Immigration Court if certain conditions are met and the appearance is approved by the Immigration Judge. Recognition by the Immigration Court is not automatic and must be requested in writing. See 8 C.F.R. § 1292.1(a)(2).

(b) Law students. —

(i) Notice of Appearance. — A law student must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). The law student should be careful to use the most current version of the

Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. He or she should check box 3 on the Form EOIR-28 and provide on the reverse side of the form both the name of the supervising attorney or accredited representative and that person's business address, if different from that of the law student.

(ii) Representation statement. — A law student wishing to appear before the Immigration Court must file a statement that he or she is participating in a legal aid program or clinic conducted by a law school or nonprofit organization and is under the direct supervision of a faculty member, licensed attorney, or accredited representative. The statement should also state that the law student is appearing without direct or indirect remuneration from the alien being represented. Such statement should be filed with the Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28). The law student's supervisor may be required to accompany the law student at any hearing. 8 C.F.R. § 1292.1(a)(2).

(c) Law graduates. —

(i) Notice of Appearance. — A law graduate must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). The law graduate should be careful to use the most current version of the Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. He or she should check box 3 on the Form EOIR-28 and provide on the reverse side of the form both the name of the supervising attorney or accredited representative and that person's business address, if different from that of the law student.

(ii) Representation statement. — A law graduate wishing to appear before the Immigration Court must file a statement that he or she is under the direct supervision of a faculty member, licensed attorney, or accredited representative. The statement should also state that the law graduate is appearing without direct or indirect remuneration from the alien being represented. Such statement should be filed with the Notice of Entry of Appearance of Attorney or Representative Before the Immigration Court (Form EOIR-28). The law graduate's supervisor may be required to accompany the law graduate at any hearing. 8 C.F.R. § 1292.1(a)(2).

(d) Representative misconduct. — Law students and law graduates must comply with standards of professional conduct. See 8 C.F.R. § 1003.101 et seq.

2.6 Paralegals

Paralegals are professionals who assist attorneys in the practice of law. They are not themselves licensed to practice law and therefore may not represent parties before the Immigration Court.

2.7 Immigration Specialists

Immigration specialists—who include visa consultants and “notarios”—are not authorized to practice law or appear before the Immigration Court. These individuals may be violating the law by practicing law without a license. As such, they do not qualify either as accredited representatives or “reputable individuals” under the regulations. See Chapters 2.4 (Accredited Representatives), 2.9(a) (Reputable individuals).

Anyone, including members of the public, may report instances of suspected misconduct by immigration specialists to the Executive Office for Immigration Review, Fraud Program. See Chapter 1.4(b) (EOIR Fraud Program).

2.8 Family Members

If a party is a child, then a parent or legal guardian may represent the child before the Immigration Court, provided the parent or legal guardian clearly informs the Immigration Court of their relationship. If a party is an adult, a family member may represent the party *only* when the family member has been authorized by the Immigration Court to do so. See Chapter 2.9(a) (Reputable individuals).

2.9 Others

(a) Reputable individuals. — Upon request, an Immigration Judge has the discretion to allow a reputable individual to appear on behalf of an alien, if the Immigration Judge is satisfied that the individual is capable of providing competent representation to the alien. See 8 C.F.R. § 1292.1(a)(3). To qualify as a reputable individual, an individual must meet all of the following criteria:

- be a person of good moral character
- appear on an individual basis, at the request of the alien
- receive no direct or indirect remuneration for his or her assistance

- file a declaration that he or she is not being remunerated for his or her assistance
- have a preexisting relationship with the alien (e.g., relative, neighbor, clergy), except in those situations where representation would otherwise not be available, and
- be officially recognized by the Immigration Court

Any individual who receives any sort of compensation or makes immigration appearances on a regular basis (such as a non-lawyer “immigration specialist,” “visa consultant,” or “notario”) does not qualify as a “reputable individual” as defined in the regulations.

To appear before the Immigration Court, a reputable individual must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). The reputable individual should be careful to use the most current version of the Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. He or she should check box 3 on the Form EOIR-28 and provide on the reverse side of the form the word “REPUTABLE INDIVIDUAL.” A person asking to be recognized as a reputable individual should file a statement attesting to each of the criteria set forth above. This statement should accompany the Form EOIR-28.

(b) Fellow inmates. — The regulations do not provide for representation by fellow inmates or other detained persons. Fellow inmates do not qualify under any of the categories of representatives enumerated in the regulations.

(c) Accredited officials of foreign governments. — An accredited official who is in the United States may appear before the Immigration Court in his or her official capacity with the alien’s consent. See 8 C.F.R. § 1292.1(a)(5). To appear before the Immigration Court, an accredited official of a foreign government must file a Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court (Form EOIR-28). The accredited official should be careful to use the most current version of the Form EOIR-28, which is available on the Executive Office for Immigration Review website at www.usdoj.gov/eoir. An accredited official should check box 3 on the Form EOIR-28 and write on the reverse side of the form the words “ACCREDITED OFFICIAL OF [name of country].” The individual must also submit evidence verifying his or her status as an accredited official of a foreign government.

(d) Former employees of the Department of Justice. — Former employees of the Department of Justice may be restricted in their ability to appear before the Immigration Court. See 8 C.F.R. § 1292.1(c).

(e) Foreign student advisors. — Foreign student advisors, including “Designated School Officials,” are not authorized to appear before the Immigration Court, unless the advisor is an accredited representative. See Chapter 2.4 (Accredited Representatives).