

# **Recognition and Accreditation Program**

## **Frequently Asked Questions**



### ***Office of Legal Access Programs***

These Frequently Asked Questions (FAQs) are being provided as a public service and do not constitute legal advice or supersede statute, regulations, or case law.

For more detailed information on requirements, an organization should consult federal regulations (particularly 8 C.F.R. § 1292 et. seq.). 81 Fed. Reg. 92346 (Dec. 19, 2016).

## **FAQs Table of Contents**

1. Applications Pending on January 18, 2017
2. Notice on Re-application for Currently Recognized Organizations
3. What is an accredited representative?
4. What are the eligibility requirements for accreditation?
5. What is the process for an accreditation application? (revised Feb. 2017)
6. What is a recognized organization?
7. How do I find recognized organizations and accredited representatives?
8. What are the eligibility requirements for an organization to become recognized?
9. How does an organization show its non-profit status?
10. How does an organization demonstrate its religious, charitable, or social service mission?
11. How does an organization demonstrate that it is federally tax-exempt?
12. Can organizations charge for services?
13. How does an organization show that its staff has adequate knowledge, information, and experience?
14. Can an application for initial recognition be approved if an organization has an attorney on staff but no accredited representative?
15. What happens if a recognized organization loses its accredited representative?
16. What is inactive status, and how long does it last?
17. How can a nonprofit organization become recognized?
18. Who is an authorized officer?
19. Is there a fee to apply for recognition or accreditation?
20. Does an organization that provides legal services at different office locations need to apply for recognition at each location?
21. What records need to be maintained by a recognized organization?
22. Where should applications be sent?
23. What is Proof of Service? (revised Feb. 2017)
24. To which USCIS offices do I need to send copies of the recognition application or accreditation request?
25. Once OLAP receives an application, how long does it take USCIS to respond?
26. What is OLAP's decision process?
27. Does an organization requesting initial recognition need to apply for its representatives at the same time?

28. Can a currently recognized organization apply for accreditation of a representative at any time?
29. Once an organization is recognized, does it have to report changes to OLAP?
30. How does an organization inform OLAP of changes? (revised Feb. 2017)
31. Does recognition expire?
32. What is conditional recognition?
33. Can my organization lose its recognition?
34. When does a currently recognized organization need to submit its annual summary of immigration legal services? (added Feb. 2017)
35. Can an accredited representative work in any of the branches of a recognized organization? (added Feb. 2017)
36. What should an accredited representative be titled under the new rule? (added Feb. 2017)
37. Do recognition renewals and accreditation renewals take place at the same time? (added Feb. 2017)
38. Does a recognized organization with multiple approved locations need to have an accredited representative at each location? (added Feb. 2017)
39. What documentation is required to support an application for accreditation? (added Feb. 2017)
40. How should an application for accreditation document the training he or she has received? (added Feb. 2017)
41. What responsibilities does an authorized officer have, and how should a recognized organization appoint one? (added Feb. 2017)
42. If a currently recognized organization has several offices, which office will be the one considered to determine whether the organization must re-apply within one, two or three years under the new rule? (added Feb. 2017)
43. If a currently recognized organization lacked an accredited representative on January 18, 2017 does it automatically become 'inactive' under the new rule? (added Feb. 2017)
44. When can a recognized organization apply for extension to its sub-offices? (added Feb. 2017)
45. What authority do BIA decisions on recognition and accreditation have under the new rule?
46. OLAP Contact Information

## **Frequently Asked Questions**

### **1. Applications Pending on January 18, 2017**

On December 19, 2016, a new rule on the Recognition and Accreditation (R&A) Program was published in the Federal Register. 81 Fed. Reg. 92346 (Dec. 19, 2016).

The rule took effect on January 18, 2017, and it transferred authority for adjudication of applications for organizations' recognition and individuals' accreditation from the Board of Immigration Appeals (BIA) to the Office of Legal Access Programs (OLAP).

The rule impacts applications pending at the time of transition that had not yet been decided by the BIA, and governs future applications. Applications that were pending On January 18, 2017, were transferred to the OLAP for resolution, and if necessary, will be returned to applicants for further documentation or information in order to allow their proper review under the rule.

The FAQs which follow describe the eligibility criteria and process under the new rule.

### **2. Notice on Re-application for Currently Recognized Organizations**

Currently recognized organizations should take note that they must apply under the standards of the new rule, on or before one, two, or three years from the effective date, depending on the particular organization's circumstances:

Recognized organizations **lacking an accredited representative** on January 18, 2017 of this regulation must apply under the new rule **within one year** of the effective date (prior to January 18, 2018);

Organizations that have been **recognized for more than 10 years** as of January 17, 2017, will need to apply under the new rule **within two years** of the effective date (prior to January 18, 2019);

Organizations that have been **recognized for less than 10 years** as of January 17, 2017, will need to apply under the new rule **within three years** of the effective date (prior to January 18, 2020).

**Note:** Once currently recognized programs have reapplied successfully under the new rule, they will remain recognized for a six year period, after which renewal will be required on or before the expiration of the six year period.

Accreditation of individuals in recognized organizations is valid for three years, and must be reapplied for on or before the expiration date of accreditation. Currently accredited representatives must apply for renewal on or before expiration of the three year accreditation period granted by the BIA. The schedule for renewal of recognition and accreditation does not run concurrently. Rather, it depends when the expiration of each occurs.

### **3. What is an accredited representative?**

A representative is “accredited” when the Office of Legal Access Programs (OLAP) gives permission to a specially qualified non-lawyer to represent noncitizens on behalf of a recognized organization. OLAP will accredit non-lawyer representatives only when they work or volunteer for a recognized organization and will never accredit a non-lawyer representative who tries to practice immigration law on his or her own.

There are two kinds of accreditation: “partial” and “full.” A partially accredited representative may represent noncitizens before the Department of Homeland Security (DHS) only. A fully accredited representative may represent noncitizens before both DHS and the Executive Office for Immigration Review (EOIR), which includes the immigration courts and the Board of Immigration Appeals (BIA)).

### **4. What are the eligibility requirements for accreditation?**

An individual who is employed by or is a volunteer of a recognized organization must meet the eligibility standards at 8 CFR § 1292.12, which include broad knowledge and adequate experience in immigration law, as well as character and fitness requirements.

### **5. What is the process for an accreditation application?**

Only a recognized organization can apply on behalf of an employee or volunteer seeking accreditation. The application and supporting documentation are filed on the form EOIR-31A, *Request by Organization for Accreditation or Renewal of Accreditation of Non –Attorney Representative*, revised as of January 2017.

### **6. What is a recognized organization?**

An organization is “recognized” when OLAP gives a non-profit organization in the United States permission to practice immigration law through accredited representatives before DHS only (partial accreditation) or DHS and EOIR (full accreditation). EOIR includes the immigration courts and the BIA. By regulation, a non-profit, federal tax-exempt, religious, charitable, social service, or similar organization established in the United States that has been approved for recognition is called a recognized organization.

### **7. How do I find recognized organizations and accredited representatives?**

Recognized organizations and accredited representatives are listed alphabetically on the Roster of Recognized Organizations and Accredited Representatives (Roster), which is maintained by OLAP and located at the OLAP website <https://www.justice.gov/eoir/recognition-and-accreditation-program>. The Roster includes the current names and addresses of recognized

organizations and accredited representatives, and identifies the type of accreditation (partial or full) for each representative.

## **8. What are the eligibility requirements for an organization to become recognized?**

To be eligible for recognition, the organization must meet the requirements described at 8 CFR § 1292.11, which includes establishing that it is a non-profit, religious, charitable, social service, or similar organization that provides immigration legal services primarily to low-income and indigent clients within the United States.

Additionally, to be eligible for recognition, an organization is required to:

- a) Demonstrate federal tax-exempt status;
- b) Demonstrate that it serves primarily low-income and indigent clients;
- c) Apply simultaneously to have at least one employee or volunteer approved as an accredited representative (if the organization has not previously been recognized);
- d) Have access to adequate knowledge, information, and experience in immigration law and procedure; and
- e) Designate an authorized officer to act on its behalf.

## **9. How does an organization show its non-profit status?**

To show non-profit status, an organization must submit:

- a) A copy of its organizing documents, including a statement of its mission or purpose;
- b) A declaration from its authorized officer attesting that it serves primarily low-income and indigent clients;
- c) A summary of the legal services to be provided;
- d) Its annual budget for the current year, and if available, its annual budget for the previous year. The annual budget should describe how the organization is funded and include information about the organization's operating expenses and sources of revenue for providing immigration legal services, including grants, fees, donations, or dues. If an annual budget for current and prior years is unavailable, an organization must submit its projected annual budget for the upcoming year; and
- e) If an organization charges fees for legal services, then the organization must also submit fee schedules and organizational policies or guidance regarding fee waivers or reduced fees based on financial need.

The organization may also submit additional documentation to demonstrate non-profit status and service to primarily low-income and indigent individuals, such as reports prepared for funders or information about other free or low-cost immigration-related services that it provides (e.g., educational or outreach events).

**10. How does an organization demonstrate its religious, charitable, or social service mission?**

An organization should submit documents such as its charter, by-laws, or articles of incorporation, organization, or association to show its religious, charitable, or social service mission.

While there is no one specific document required by OLAP, an organization may want to provide letters of recommendation from community members, particularly letters showing the organization's involvement and commitment to the community it serves and the quality of its services.

**11. How does an organization demonstrate that it is federally tax-exempt?**

An organization must submit with its recognition application a copy of its currently valid IRS tax exemption letter, alternative documentation to establish federal tax-exempt status, or proof that it has applied for federal tax-exempt status.

**12. Can organizations charge for services?**

Yes, but the organization must declare and document that it serves primarily low-income and indigent clients. As the organization must be a federally tax-exempt non-profit to be recognized, the documents showing the organization's fee schedules, revenue, and budget will be reviewed by OLAP. The rule also requires proof of organizational policies regarding fee waivers or reduced fees based on financial need. The nominal fees/charges restrictions are no longer applicable for the R&A Program.

**13. How does an organization show that its staff has adequate knowledge, information, and experience?**

To show that its staff has adequate knowledge, information, and experience, an organization must submit:

- a) A description of the immigration legal services that the organization seeks to offer;
- b) A description of the legal resources to which the organization has access;
- c) An organizational chart showing names, titles, and supervisors of immigration legal staff members;
- d) A description of the qualifications, experience, and breadth of immigration knowledge of these staff members, including, but not limited to résumés, letters of recommendation, certifications, and a list of all relevant, formal immigration-related trainings attended by staff members; and

- e) Any agreement or proof of a formal arrangement entered into with non-staff immigration practitioners and recognized organizations for consultations or technical legal assistance.

**14. Can an application for initial recognition be approved if an organization has an attorney on staff but no accredited representative?**

No. The purpose of recognition is to allow organizations to provide legal representation to low-income or indigent noncitizens through non-attorneys when there are no attorneys on staff. Thus, organizations that are seeking recognition for the first time must simultaneously have a qualified person submit an application to be an accredited representative. Recognition allows the organization to apply for the accreditation of non-attorney staff.

**15. What happens if a recognized organization loses its accredited representative?**

The regulations require recognized organizations to promptly notify OLAP of changes to information that was in its application for recognition, including changes in personnel of accredited representatives on staff. If all of a recognized organization's accredited representatives leave the organization, it will be placed on an inactive status on the Roster. A recognized organization that loses its accredited staff is precluded from offering legal services in that circumstance, unless the organization also has an attorney on staff.

**16. What is inactive status, and how long does it last?**

Inactive status indicates that the recognized organization does not currently have an accredited representative, although it did have one at the time it was initially recognized. Inactive status can continue for up to two years from the date the organization is placed on inactive status in order to allow the organization time to apply for and have approved the accreditation of one or more new representatives. Inactive status is described in detail at 8 CFR § 1292.16(h)(3)(i).

**17. How can a nonprofit organization become recognized?**

An interested non-profit organization must apply for recognition with OLAP and be approved. To apply for recognition, the organization must file its supporting documentation with a *Request for Recognition of a Non-Profit Religious, Charitable, Social Service or Similar Organization* (Form EOIR-31), using the January 2017 version. The Form EOIR-31 is available on the EOIR website and provides instructions including what should accompany the form and where to file it.



**18. Who is an authorized officer?**

An organization should designate an authorized officer who applies for recognition on behalf of the organization. OLAP requires this person to verify the contents of the application, and to provide his or her information as the point of contact for OLAP in all matters related to the application. The recognized organization must promptly notify OLAP if its authorized officer changes.

**19. Is there a fee to apply for recognition or accreditation?**

No, there is no fee to apply for recognition or accreditation.

**20. Does an organization that provides legal services at different office locations need to apply for recognition at each location?**

It depends. Under the current regulation, a recognized organization may request extension of recognition to multiple locations of the organization at the time of application or any time after approval. This type of joint application is appropriate where one authorized officer can present such an application on behalf of multiple locations that are under his or her supervision and control, and that share operations, management structure, or funding sources from the organization's headquarters. Recognition may be extended from headquarters to branch/subordinate offices/locations if they meet the standards in 8 CFR § 1292.15 without applying independently for each location as previously required by BIA precedent.

**21. What records need to be maintained by a recognized organization?**

Under the current rule, as of January 18, 2017, recognized organizations should maintain the records detailed in 8 CFR § 1292.14(b)(1)(2) regarding fee schedules and an annual summary of immigration legal services.

**22. Where should applications be sent?**

Send your complete original application and supporting documentation with proof of service to the R&A Coordinator at OLAP, 5107 Leesburg Pike, Suite 1900, Falls Church, VA 22041. Remember: if you do not include a proof of service of exact copies to the appropriate DHS, U.S. Citizenship and Immigration Services (USCIS) office(s), your application is not considered complete.

### **23. What is Proof of Service?**

In this context, a “proof of service” (or a “certificate of service”) is an organization’s formal guarantee to OLAP that it has sent an exact copy of its filing to the appropriate USCIS office. USCIS has the same obligation to the organization when it files something with OLAP in response to the organization’s application.

Every filing related to an application for recognition or accreditation, whether an application, attached supporting documentation, recommendation, extension request, response to a recommendation, or other formal submission, must clearly contain a Proof of Service.

The recognition application, Form EOIR-31, and the accreditation application, Form EOIR-31A, contain a sample Proof of Service on the back of the form.

Routine correspondence with OLAP, such as reporting changes as required under 8 C.F.R. § 1292.12(a), need not be served on USCIS. (revised Feb. 2017)

### **24. To which USCIS offices do I need to send copies of the recognition application or accreditation request?**

Your organization needs to send its documents to the USCIS District Director(s) in the jurisdiction where your organization’s headquarters is located and to the USCIS office where services will be rendered, if that is a different USCIS District.

### **25. Once OLAP receives an application, how long does it take USCIS to respond?**

When an application is filed, OLAP gives USCIS 30 days to review it and respond with a recommendation. If USCIS gives an unfavorable recommendation, the organization has 30 days to respond. Both USCIS and the organization are able to request an extension, though neither extension is automatic.

Until OLAP grants an extension, the existing deadline stands. As a general practice, when OLAP grants an extension, it is usually for no more than 30 days. Longer periods may be requested, but an extension request will not be granted unless the reason is persuasive.

### **26. What is OLAP’s decision process?**

OLAP issues a written decision on each application for recognition. If it is denied, the organization can request reconsideration by the OLAP Director within 30 days. The recognition status of a currently recognized organization will remain valid while that request is pending. If the OLAP Director denies the reconsideration, the organization can request administrative review of the reconsideration denial by the Director of EOIR, who has discretionary authority to review such a denial. The organization may request such a review within 10 days of the denial,

identifying the factual and legal errors in the underlying determination. Requests for both reconsideration by OLAP and administrative review by the Director of EOIR should be sent to the R&A Coordinator.

**27. Does an organization requesting initial recognition need to apply for its representatives at the same time?**

Yes. An accreditation application must be submitted concurrently with an initial recognition application, unless the organization has previously been recognized.

**28. Can a currently recognized organization apply for accreditation of a representative at any time?**

Yes. The organization can apply for accreditation of a representative at any time after the organization's recognition is approved. Accreditation is valid for three years, after which time the organization would need to apply for renewal of accreditation of the representative.

**29. Once an organization is recognized, does it have to report changes to OLAP?**

Yes. The authorized officer of the organization must promptly report through written correspondence any material changes to the information in its application, including its contact information (such as name, address, telephone number, fax number, and email), see 8 C.F.R. § 1292.14(a).

With respect to accredited representatives, the organization should report any changes to the names of its accredited representatives. The organization also needs to notify OLAP if an accredited representative leaves the organization. Remember: Accreditation is permission for non-lawyers to represent noncitizens in immigration matters on behalf of a recognized organization only.

**30. How does an organization inform OLAP of changes?**

Inform OLAP of any changes in writing. Changes of address, email, phone numbers, staff names, organizational structure, etc. should be reported promptly to OLAP's R&A Coordinator. (Revised Feb. 2017)

**31. Does recognition expire?**

Yes. Recognition under the rule is valid for a period of six years from the date of OLAP's approval of recognition, unless the organization has been granted conditional recognition.

### **32. What is conditional recognition?**

Conditional recognition is granted to an organization that has not been previously recognized, has federal tax-exempt status pending, or has been approved for recognition after recognition was previously terminated. Conditional recognition is valid for two years from the date of OLAP's approval of conditional recognition.

### **33. Can my organization lose its recognition?**

Yes. OLAP may terminate recognition of any organization that has failed to maintain the qualifications required for recognition or if an organization is subject to disciplinary sanctions.

When OLAP terminates recognition, the organization loses its status as a recognized organization. The name of the organization and the names of any accredited representatives affiliated with the organization are removed from the Roster. The organization and its staff can no longer use R&A status in community outreach, to file forms, or to enter appearances before DHS or EOIR (using the Form G-28, EOIR-27, or EOIR-28). Claiming R&A status after recognition is terminated would be considered the unauthorized practice of immigration law.

### **34. When does a currently recognized organization need to submit its annual summary of immigration legal services?**

When the organization files an EOIR-31 for renewal of recognition under the new rule, according to the timeframes described at 8 C.F.R. § 1292.16(h), it should provide a summary of legal services provided for each year, beginning on January 18, 2017. Thereafter, once renewed under the new rule for a period of six years, organizations must submit the annual summary of legal services for the six years since last recognition with the next renewal request. The content of the summary is described in detail at 8 CFR § 1292.14(b)(2), and in the EOIR-31 instructions, Part 10. (Added Feb. 2017)

### **35. Can an accredited representative work in any of the branches of a recognized organization?**

Yes, if all the branches have been approved by OLAP as extensions of the headquarters office. Under the former rule, an accredited representative could also practice among branches of a recognized organization, but first each of those branches had to be approved in separate applications by the BIA. Under the current rule, a recognized organization seeking extension to other locations may file one EOIR-31 with supporting documentation establishing that the headquarters or designated office exercises supervision and control over its accredited representatives at those offices, provides adequate legal resources at each such office, and has joint management, operations and funding. 8 CFR § 1292.15. (added Feb. 2017)

**36. What should an accredited representative be titled under the new rule?**

Although no particular title is specified under the rule, accredited representatives who were formerly BIA Accredited Representatives are now DOJ Accredited Representatives. As of January 18, 2017, the Department of Justice, Executive Office for Immigration Review, Office of Legal Access Programs is operating the Recognition and Accreditation program. (added Feb. 2017)

**37. Do recognition renewals and accreditation renewals take place at the same time?**

Generally, no. Recognition and accreditation are valid for different periods, and each must be renewed on or before the date that it is due to expire. Current organizations must re-apply under the new rule in either one, two or three years, depending on the organization's circumstances, and when they are approved their recognition will be valid for six years. New organizations applying for recognition, those with Federal tax-exempt status pending, or organizations that have had their recognition previously terminated are recognized for a two-year conditional period. 8 CFR §1292.11 (f). Accreditation, on the other hand, is valid for a three-year period, and accredited persons must seek renewal on or before expiration of the three years. 8 CFR § 1292.12 (d). Recognition and accreditation terms do not run simultaneously, and each must be renewed on or before its respective expiration date. (added Feb. 2017)

**38. Does a recognized organization with multiple approved locations need to have an accredited representative at each location?**

No. Since an accredited representative can practice at any of the recognized organization's approved locations, it is not necessary to have a separate accredited representative at each one. (added Feb. 2017)

**39. What documentation is required to support an application for accreditation?**

A recognized organization must be applying for the accredited representative, either by already having approved recognition prior to filing for the accreditation, or by filing for its initial recognition simultaneously with an application for an individual's accreditation. The form EOIR-31A for accreditation should be supported by the documentation described in the instructions to the form at Part 4, and in the rule at 8 CFR § 1292.12(a)(1)-(6), such as character references from the community, employment references, and criminal background checks to establish character and fitness eligibility. The applicant should also provide documentation to demonstrate that the he or she possesses broad knowledge and adequate experience in immigration law, practice and procedure. The applicant should include a resume or description of the individual's qualifications that details education and experience in immigration. Further

supporting documents include at least two letters of recommendation from individuals familiar with the applicant's qualifications, and documents showing that the applicant has at least one formal training course in the fundamentals of immigration law designed to give new practitioners a solid overview. Additional training in specific topics and/or experience is recommended. (added Feb. 2017)

**40. How should an application for accreditation document the training he or she has received?**

Information about formal training includes certificates of completion, if available, the title of the training, the provider's name, dates and duration of the training, the names and titles of presenters, the topics covered, whether the training was attended in person or through other means, and whether the training was open to the public. If tests were taken as part of the training, the results may be provided. (added Feb. 2017)

**41. What responsibilities does an authorized officer have, and how should a recognized organization appoint one?**

The authorized officer is designated by the recognized organization to act on its behalf, and eligibility requirements for recognition specify that the organization have an authorized officer. 8 CFR §1292.11(a)(5). The rule does not specify how the organization chooses that person, nor does it require that the authorized officer be an accredited representative. The authorized officer will be the principal point of contact with OLAP for all recognition and accreditation matters, and their attestation, phone, and email information is required on all applications filed with OLAP. Any changes in the authorized officer designated by the organization must be reported promptly to OLAP. 8 CFR §1292.14(a). The authorized officer must review and affirm the truth of all information and supporting documents provided for recognition and accreditation. The authorized officer also has the duty to report to OLAP promptly, in writing, any material changes in the organization or its accredited representatives, as described in 8 CFR §1292.14(a) including alterations to the organization's name, address, phone number, web site address, email address, changes in accredited representative's status with the organization, and changes in the organization's structure, or a change in non-profit or Federal tax-exempt status. (added Feb. 2017)

**42. If a currently recognized organization has several offices, which office will be the one considered to determine whether the organization must re-apply within one, two or three years under the new rule?**

When an organization is re-applying under the new rule, and is seeking to extend recognition to sub-offices from one headquarters office as permitted under 8 CFR §1292.15, it should look to

the headquarters or designated office to determine when re-application under the new rule should take place. See instructions to the EOIR-31, p.2. (added Feb. 2017)

**43. If a currently recognized organization lacked an accredited representative on January 18, 2017 does it automatically become ‘inactive’ under the new rule?**

No. A currently recognized organization that lacks an accredited representative as of the effective date must re-apply for recognition within one year, by January 18, 2018. In order to qualify for recognition upon re-application, an organization must have an accredited representative or be simultaneously applying for accreditation of a representative with its application for recognition.

However, if a recognized organization had an accredited representative on January 18, 2017, but subsequently lost the accredited representative (leaving the organization with no other accredited representative), then the organization will be designated as inactive on the Roster, as well as precluded from providing legal services if they also lack an attorney on staff, as provided in 8 CFR §1292.16(i). Inactive status may last up to two years from the date that the organization is placed on it by OLAP, in order to allow the organization to apply for and have approved the accreditation of one or more representatives. (added Feb. 2017)

**44. When can a recognized organization apply for extension to its sub-offices?**

This application can be made on form EOIR-31 at any time, or with an application for renewal. Extension requests should be supported by documentation of eligibility showing supervision and control of sub-office accredited representatives, as described in 8 CFR §1292.15. The authorized officer must attest that the organization periodically conducts inspections of each such office, and that they have joint funding, operations and management. (added Feb. 2017)

**45. What authority do BIA decisions on recognition and accreditation have under the new rule?**

The BIA’s decisions on recognition and accreditation are not binding under the new rule. However, relevant decisions have been incorporated in parts of the new rule, and may inform OLAP’s interpretations. (added Feb. 2017)

**46. OLAP Contact Information:**

Email: [R-A-Info@usdoj.gov](mailto:R-A-Info@usdoj.gov)

Mail: R&A Coordinator  
Office of Legal Access Programs

Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 1900  
Falls Church, VA 22041