

# **BOARD OF IMMIGRATION APPEALS (BIA) RECOGNITION AND ACCREDITATION**

**CLINIC: Center for Citizenship and Immigrant  
Communities**

**April 16, 2009**

**2:00 – 3:30 pm EST**

**PowerPoint slides will be posted at [www.cliniclegal.org](http://www.cliniclegal.org)**

***\*\*Please call 916-233-3087 and enter the access code 246-539-255 for audio\*\****

# CLINIC Presenters

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Capacity Building Division

# Webinar Goals

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- Understand the importance of obtaining BIA Recognition & Accreditation;
- Understand the requirements of BIA Recognition and Accreditation;
- Know how to apply for BIA Recognition and Accreditation.

# Overview of Board of Immigration Appeals (BIA)

- Why apply for BIA recognition and accreditation;
- What is BIA recognition and accreditation;
- How to apply for BIA recognition and accreditation.

# Case Study

Immigration Services Extraordinaire (ISE) opened in 1990 as a refugee resettlement organization. After a few years, resettled refugees began appearing at the office asking for assistance with their adjustment of status paperwork. They also wanted help in bringing family members over to the U.S.

ISE began helping clients fill in the blanks on the immigration forms. ISE would collect U.S. Citizenship and Immigration Services (USCIS) fees and then send a completed application to USCIS for the clients. ISE also provided advice on possible next steps.

ISE saw no problem with this as their clients struggled with English, struggled with the complicated nature of the immigration forms, and didn't have complex immigration needs.

# What is BIA?

- Part of U.S. Department of Justice, Executive Office of Immigration Review;
- Appeals court for immigration court cases;
- Grants agency recognition and individual recognition to practice immigration law.  
8 CFR § 292.2

# Who can practice immigration law?

- Two main groups:
  - Attorneys;
  - BIA accredited representatives.

# What is “practicing law”?

- Anything more than filling in blanks as client directs;
- Explaining what something on the form “means”;
- Recommending how to fill out a certain form or part of a form;
- Recommending which form a client needs;
- Telling clients what immigration benefits they might be eligible for;
- Advising a client whether or not to file a certain application.

**8 Code of Federal Regulations (CFR) § 1.1 (K)**

# What is “unauthorized practice of law”?

- Practicing law without official permission (license or accreditation);
- Almost all help on immigration forms without BIA accreditation is unauthorized practice of law;
- Agency and/or worker may be liable.

## What are non-accredited reps. or non-attorneys *not allowed* to do?

- Cannot practice law (e.g. fill out G-28, Entry of Appearance as Attorney or Accredited Rep. for a USCIS immigration case.)
- Almost anything more than filling in the form the client brings you, as he/she directs

# What are non-accredited reps. or non-attorneys *allowed* to do?

- Fill in forms client brings you and fill in blanks as instructed by him/her;
- Fill out intake forms (e.g. gather background information about the client);
- Help gather supporting documentation for client's case;
- Translation/interpretation;
- Referrals to immigration attorneys.

# POLL

## Is this practice of law? (POLL)

An immigrant says “I’ve been a refugee for three years and I want to apply for a green card, which forms do I need?” You answer them by giving them the forms.

# What consequences could result from unauthorized practice of law?

- Client liability
  - Irreparable harm to client e.g. deportation
  - increased likelihood of mistakes
- Agency liability (not covered for legal malpractice)
  - Clients could sue agency
  - Most states could go after agency for unauthorized practice of law

# Things to remember

- Make it clear to clients that you are not qualified in legal matters and have no expertise in immigration law and procedure.
- USCIS will not respond to clients status inquiries made by non-accredited reps. USCIS will only respond if there is a G-28 (Notice of Entry of appearance by attorney or accredited representative).

# What's Recognition?

- BIA grants recognition only to non-profit 501 (C)(3) agencies.
- Agency must receive recognition for agency staff (non-attorneys) to be accredited.
- Only recognized agencies may apply for staff members to be accredited.

# What's Accreditation?

- Employee/volunteer of BIA recognized nonprofit agency
- Knowledge/training of immigration law
- Partial or fully accredited
- Last for 3 years, renewable
- Show good moral character (supervisor can attest it in cover letter)
- Terminates if staff member leaves agency

# How could BIA recognition and accreditation benefit your program?

- Strengthen program/ensure better client services
  - More complete/professional services
  - Reps. can sign G-28, obtaining copies of everything DHS sends to clients
  - Reps. can represent client at interviews
- Ensure quality of immigration advice
  - Substantive immigration law training required for accreditation
  - Ongoing training required

# What does BIA R&A allow?

- Recognition of agency provides staff accreditation
- Practice within USCIS or Immigration Court
  - Immigration is in federal jurisdiction & trumps state authority as to who practice's in federal agencies
- Can get accredited in more than one agency

## What are the limitations of BIA R&A?

- Rep. can only practice in agency that applied for accreditation
- Rep. must work under auspices of that recognized agency
- Rep. can't practice in local, county, state or federal courts other than immigration trial courts and BIA

# Agency Recognition Requirements

## 8 CFR § 1292.2(a) and (b)

- 501 (c) 3, Non-profit agency (non-profit status does not count)
- Nominal fees
- Knowledge and experience with immigration law, and immigration resources at its disposal
- Independent existence
- Access to support of an immigration attorney or fully accredited rep on staff, as consultant or access to immigration attorney or fully accredited rep via phone or email in case of partially accredited rep (Matter of EAC)

# Agency Recognition

- Lasts indefinitely unless revoked
- No renewal necessary
- Satellite offices must apply separately if offering immigration legal services
- Agency changes names or address, notify BIA to update information on BIA roster available at [www.usdoj.gov/eoir/statspub/raroster.htm](http://www.usdoj.gov/eoir/statspub/raroster.htm)

# Who can get recognized?

**(POLL)**

- Jewish Family Services?
- Wal-Mart?

# BIA Recognition Application

- Form EOIR-31 with proof of service on CIS and ICE
  - Available at <http://www.usdoj.gov/eoir/eoirforms/eoir31.pdf>
- Cover letter
- Proof of federal 501(C)(3) non-profit status
- List of immigration resource materials (hard-copy and internet)

# BIA Recognition Application Con't

- Fee schedule
- List of funding sources
- Organizational chart (supervision of immigration staff)
- Letters of support
- Immigration resumes/training certificates of staff with immigration knowledge/experience

# Where to send application?

Mail original to:

Ms. Paulomi Dhoka, Coordinator  
Recognition and Accreditation Program  
Executive Office for Immigration Review  
Board of Immigration Appeals  
P.O. Box 8530  
5170 Leesburg Pike, Suite 2000  
Falls Church, VA 22041

# Copies to USCIS and ICE

- Must send copy of complete application to local USCIS District Director
- Must send another copy to local ICE Special-Agent-in-Charge in separate envelope/postage
- Make copy for your file
- Fill out “Proof of Service” on EOIR form indicating you mailed these copies

# What about Staff Accreditation?

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- This requires additional information to be submitted with your Agency recognition packet.

# BIA Accreditation Application

- Cover letter requesting accreditation
- Immigration resume of the applicant listing all immigration-related experience & training
- Certificates and/or agendas from immigration trainings
- Letter(s) of recommendation from supervisor and others who know applicant's work well (two letters sufficient)
- Proof of service on CIS and ICE

# Trainings

- Immigrant Legal Resource Center 40-hour training. BIA regards very highly. [www.ilrc.org](http://www.ilrc.org)
- AILA and others provide trainings throughout the year on wide variety of immigration topics
- CLINIC trainings [www.cliniclegal.org](http://www.cliniclegal.org)
- Check immigration advocates network for trainings around the country on immigration law <http://www.immigrationadvocates.org/>
- Don't forget about webinars!

# Who could get accredited?

## (POLL)

- Could Sylvia, a legal advocate from Domestic Violence Institute, who has 3 months of practical immigration experience and attended two substantive immigration law trainings apply for accreditation?

# Where to send

- Same address as recognition application
- Must send copy to local USCIS District Director and local ICE Special-Agent-in-Charge in separate envelope/postage
- Make copy for your file
- Proof of Service on USCIS and ICE

# What Happens Next

- Agency sends recognition and accreditation application together (NO reason not to do this)
- CIS and ICE have 30 days to recommend for or against application (usually they don't respond)
- If CIS and/or ICE timely responds against application, agency can respond with original response to BIA and copies served on CIS and ICE

# BIA Decision

- BIA makes decision
- If denial, BIA will state reasons for denial. Agency can reapply immediately or appeal the denial.
- If approved, newly accredited rep. may immediately begin practicing immigration law at the agency.

# Case Study

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# Resources

- CLINIC's Immigration Management Manual, Chapter 4, "Board of Recognition and Accreditation" available
- Step by Step Application Guide
- BIA Decisions
- Law Library Resources
- Sample Applications

All resources are available free to download at:  
<http://www.cliniclegal.org/resources/toolkit-bia-recognition-accreditation>

# Questions or Further Information

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