

CHAPTER FOUR

Authorization for Non-Attorneys to Practice Immigration Law: BIA Recognition and Accreditation

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Your agency has no attorneys on staff, you have no money to hire any, but you want to offer immigration legal services. Or your agency has been helping immigrants for years with simple immigration matters, but you've realized that what you're doing is unauthorized practice of law, and you would like to get authorization to do the work you've been doing. Or your agency has attorneys and non-attorneys on staff, and you'd like your experienced non-attorney staff to expand the range of the immigration work they do. In each of these common situations, your agency should seek recognition for the agency and accreditation for non-attorney employees so that they may practice immigration law with legal authorization. This is not a difficult process, and the process of applying is not complicated

We will begin this chapter by explaining what is meant by "practice of law" and "representation" and what constitutes unauthorized practice of law. Many programs employ non-attorney, non-accredited staff. It is important to understand what constitutes unauthorized practice of law, and why you will need either an accredited representative or an attorney on your staff in order to offer immigration legal services.

PRACTICE OF LAW

What does it mean to "practice law"? What does it mean to "represent" a client? It turns out that almost any advice you give to clients about their own particular immigration situation may be construed as "practicing immigration law." It may be counter-intuitive, but even something as simple as handing out immigration forms may constitute practice of law.

For instance, an immigrant might walk into your agency and say "I've been a refugee for three years. Now I want to apply for a green card, which forms do I need? Can you give them to me?" A staff member hands her a packet of forms. Or an immigrant might bring you a form and ask for your help filling it out; you help him figure out what is meant by the questions "date of last entry" and "current immigration status." Both of these types of help may be considered "practice of law."

Immigration regulations define "practice" of law thus:

"The term "practice" means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service, or any officer of the Service, or the Board." 8 CFR § 1.1(i)

And further define "preparation" thus:

"The term "preparation," constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure." 8 CFR § 1.1(k)

The reason that all these seemingly innocuous and trivial activities might constitute practice of law is that they may cause an immigrant to think that she is being given advice about how to handle her immigration situation, and to rely on that advice. That can have dangerous consequences. If the immigrant above who

asked you for “green card application forms” has a conviction that makes her deportable, and she applies for permanent residence because your agency, a reputable immigrant-serving agency she trusts, gave her the forms and thus, she believes, it is fine for her to apply for residency, you have not actually served her well at all.

What is not “practice of law” in immigration matters? Helping someone fill out a form that he brings you, merely by filling in the blanks as he directs. Translating documents. Interpreting (i.e., in-person translation of real-time conversations). Providing general information about immigration law (for instance, about the requirements for naturalization) in a group setting in which you make it clear that you are not advising anyone about her or his individual case.

Unauthorized Practice of Law (UPL) is a serious problem in immigrant communities around the country, with unscrupulous individuals claiming authorization to practice immigration law. Many immigrants have been defrauded by “immigration consultants” who demand large fees and expose them to serious immigration consequences by doing shoddy work, or filing fraudulent or frivolous applications. Such consultants, often known as “notarios,” engage regularly in unauthorized practice of law, sometimes with devastating consequences.

Unauthorized practice is an issue for well-meaning nonprofits as well. A nonprofit that practices immigration law without authorization also exposes clients to potential harm, and the agency to liability. Even workers with the best of intentions, but who lack knowledge, training, and authorization, may put clients at risk of losing immigration benefits and even deportation.

Each state regulates who may practice law in that state. Anyone who practices law without authorization may be liable under the particular state’s unauthorized practice of law statute. It is up to a particular state to enforce unauthorized practice laws. The Board of Immigration Appeals (BIA) and the Department of Homeland Security (DHS) do not enforce unauthorized practice laws. The American Bar Association has created a chart showing each state’s laws regulating UPL; note that some states have laws specifically regulating non-attorney immigration consultants:

http://www.abanet.org/publicserv/immigration/notarios_state_law_chart.pdf

Florida, for instance, specifically prohibits non-attorneys and non-accredited representatives from discussing immigration questions with clients. The only exception is translating an immigration form, “as long as questions are not asked or answered.” “The Florida Bar will not prosecute a non-lawyer for the unlicensed practice of law for the use of computer software spell-checking, grammar-checking, or proofreading utilities to correct spelling or grammatical errors where the spelling or grammatical error is so obvious that the correction does not require discussions with the customer. This policy does not prohibit The Florida Bar from investigating the activities of a nonlawyer to determine what services are being provided.”²

Unauthorized practice may also expose an agency to lawsuits filed by clients who have been harmed by the agency. An inexperienced staff member without adequate immigration law training and skills may inadvertently subject a client to denial of immigration benefits and even deportation. An agency that is engaged in unauthorized practice of law will not be insured for legal malpractice, and is more likely to make mistakes that could lead to serious consequences for clients.

In order to protect your clients and your agency, it is important to ensure that your agency does not engage in unauthorized practice of law. If you have been doing this, the good news is that there is a way for non-attorneys to practice law with authorization; it is open to nonprofit organizations. The requirements are laid out below.

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<http://www3.flabar.org/DIVCOM/JN/JNNNews01.nsf/76d28aa8f2ee03e185256aa9005d8d9a/3fe84c2d97b75380852572e50050124a?OpenDocument>

RECOGNITION AND ACCREDITATION BY THE BOARD OF IMMIGRATION APPEALS

“Recognition” of a nonprofit immigration legal services agency and “accreditation” of some of its staff members by the BIA allow non-attorneys working at that nonprofit to practice immigration law. Accredited representatives working at recognized agencies may represent clients before DHS and/or the Executive Office of Immigration Review (EOIR) to the same extent as attorneys. Recognition and accreditation are enormously important in the nonprofit immigration field: the majority of nonprofit immigration legal service providers are staffed by accredited representatives. BIA recognition and accreditation also provide assurance to clients of the agency’s experience and knowledge in the area of immigration law.

“**Recognition**” is granted to a nonprofit charitable, religious, or social services agency. In order to be granted recognition, an agency must have “knowledge, information and experience” with immigration law and procedure and charge only “nominal” fees if it charges clients any fees. Recognition of an agency does not expire, and need not be renewed.

Once an agency is recognized, it may apply for individual staff members to be **accredited**. Accreditation allows non-attorneys to practice immigration law under the auspices of the recognized agency for which they work. There are two types of accreditation, known as “partial” and “full.” Partial accreditation allows for practice before U.S. Citizenship and Immigration Services (USCIS) only, while full accreditation allows for practice also before the Immigration Court and BIA.

The rules governing recognition and accreditation are found at 8 CFR § 292.2, and in a handful of published BIA decisions. The regulations themselves are extremely brief, and the few published BIA decisions do not address some of the important issues that arise in recognition and accreditation applications. It is a very good idea when applying for recognition and accreditation to talk to other programs whose applications were recently approved, or to practitioners with experience handling these applications.

RECOGNITION

Requirements for Agency Recognition

The requirements for agency recognition, which derive from 8 CFR § 292.2 and from the five published BIA decisions on recognition and accreditation, are as follows:

- Must be nonprofit religious, charitable, or social services agency;
- Any fees any agency charges for immigration work may only be “nominal”;
- Must have knowledge, information, and experience on immigration law and procedure; and

Pros and Cons of Recognition and Accreditation

Pros

It is free.

Recognition need not be renewed.

Lower cost staffing option than attorneys.

Agency not engaging in unauthorized practice of law.

Better service to clients: an accredited representative may file a G-28 “Notice of Entry of Appearance” with applications; this form, which generally only attorneys and accredited representatives may file, notifies USCIS that the client has a representative. USCIS must then send the representative a copy of all correspondence it sends to the client. This is tremendously helpful to clients. The G-28 also allows the accredited rep to make direct inquiries to USCIS on behalf of clients. An accredited representative may also represent clients at DHS/EOIR interviews and hearings.

Cons

“Nominal fee” caps. Recognition and accreditation subjects the agency to the BIA’s “nominal fee” caps. An agency that employs only attorneys and paralegal staff would not be subject to these fee restrictions. (note that we discuss the “nominal” fee requirement in detail below)

- Must have independent existence apart from its proposed representative

Nonprofit Religious, Charitable or Social Services Agency: You will need to show that your agency has been legally incorporated as a nonprofit, and that you do some kind of religious, charitable and/or social services work.

Which fees are “nominal”: There is no formal definition of what the regulations mean by “nominal” fees. The BIA will look at the application to determine whether or not the agency has means to support its immigration work apart from client fees. If your program’s budget does not show some significant funding sources beyond client fees, the BIA is likely to determine that your fees are not “nominal.” The BIA also appears to consider the proposed fees in and of themselves. To determine if your fees are “nominal,” it is best to compare them to fees the BIA has recently approved.

Knowledge, Information and Experience with Immigration Law and Procedure: The agency must have someone on staff who has knowledge and experience with immigration law, or have some other source of knowledge and information. Generally this would be the candidate for accreditation. If the agency has an immigration attorney on staff, make sure to indicate this in your application.

There is no requirement that a recognized agency have any relationship, formal or otherwise, with an immigration attorney. Such a relationship strengthens an application—and may be a good idea for other reasons—but it is not required. There are many recognized agencies that have no attorneys on staff, although many choose to set up formal or informal consulting relationships with immigration attorneys.

Independent Existence: This requirement stems from one of the five published BIA decisions on recognition and accreditation, *Matter of Baptist Educational Center*, 20 I &N Dec. 723 (BIA 1993). In that case, the Board found that the agency in question was not an independent nonprofit, but merely a means for a law school graduate who could not pass the bar to offer immigration services for his own personal profit. The purported organization, among other problems, had no bank account of its own, operated out of the home of its accredited representative, and conducted no business other than his own immigration counseling.

Duration of Recognition

Duration: Recognition does not expire. Once your agency is recognized, you need never renew that recognition.

Withdrawal of Recognition: The BIA may withdraw an agency’s recognition if it no longer meets the requirements for recognition. The procedures for withdrawal are set forth at 8 CFR § 292.2(c).

Reporting Changes of Address: A recognized agency must promptly inform the BIA of any changes of address, phone number, or name. This is in your agency’s best interest, as it is to your benefit to have correct contact information on the BIA recognition roster.

Separate Offices Need Separate Recognition

Each Geographically Separate Office Needs Separate Recognition: If your agency has more than one physical office, and each office wants recognition, you will need to submit a separate application for each office. Recognition of the “parent” agency does not confer recognition on separate satellite offices. This requirement stems from a BIA decision, *Matter of Florida Rural Legal Services, Inc.*, Int. Dec. 3196 (BIA 1993).

However, some agencies hold off-site clinics or do intake or outreach off-site from time to time. As long as the bulk of the legal work is being done back at the recognized office, it should not be necessary to apply for recognition for these off-site locations. Separate recognition is needed where an agency has actual offices in different locations and wishes to do legal work at each of these separate offices. This often comes up when a parent agency has “sub-offices.”

How to Tell if an Agency is Recognized: The BIA maintains rosters of all the recognized agencies and accredited representatives; they are available on their website at <http://www.usdoj.gov/eoir/statspub/raroster.htm>.

How to Apply for Recognition

Please see attached “Sample BIA Recognition Request” on page 143.

A request for recognition should contain the following:

- Form EOIR-31
- Cover letter explaining what the agency does and why it merits recognition
- Agency articles of incorporation (showing nonprofit status)
- Agency by-laws (showing nonprofit status)
- Agency 501(c)(3) letter (showing tax-exempt nonprofit status), if agency has one
- List of agency’s immigration library resources
- List of fees for immigration services
- Brief list of agency’s funding sources
- Organizational personnel chart, showing supervision of immigration staff
- Resumes of any staff with immigration training and/or experience
- Letters of recommendation
- Local newspaper articles showcasing agency’s great work (optional)

We will cover each of these elements in more detail.

EOIR-31

This form is available on the EOIR website at <http://www.usdoj.gov/eoir/eoirforms/instru31.htm>. It is a one-page form on which you indicate that your program is applying for recognition, and whether you are a religious, charitable, social services, or other nonprofit. Note that the form lists supporting documentation you must provide: proof of nonprofit status; list of library resources; list of fees and funding sources; organizational diagram; resumes and training certificates for those with immigration experiences.

Cover Letter Explaining What the Agency Does and Why it Merits Recognition

Use the cover letter to introduce your agency, explain the work it does, request recognition (and accreditation if you are requesting that for staff) and show how the program meets the criteria for recognition. Highlight the immigrant-related programs at your agency. Describe the need for low-cost, high-quality services in your community that is leading your program to seek recognition. Sum up for the reader the reasons your agency merits recognition.

Important note: Recently the BIA has denied a number of agencies recognition because they failed to offer a “full range of services, including removal defense.” These were agencies that were applying for partial accreditation for staff members. These decisions were incorrect: there is no such requirement. Agencies may offer any range of services they choose as long as they have staff authorized to offer them.

In order to ensure that the BIA does not deny your recognition application for this reason, include the following language in your cover letter; be sure to adapt the language to your own particular agency:

“The agency has at its disposal adequate knowledge, information, and experience in immigration law and procedure, as required by 8 CFR § 292.2 (b) and reiterated by *Matter of Lutheran Ministries of Florida*, 20 I&N Dec. 185 (BIA 1990). That decision elaborates on this requirement, explaining that an agency must have some knowledge of “the visa petition process, and exclusion and deportation.” *Lutheran Ministries* 185, 186. It is important to note that this decision does *not* require that an agency actually offer representation in removal proceedings, nor indeed does it (or any other decision) require that a

recognized agency offer any specific immigration legal service. What the decision does require is that an agency has sufficient knowledge of immigration law and procedure, including knowledge about visa petitions and removal proceedings. This agency has fulfilled that requirement through its staff member's [attendance at specific training(s) and/or experience].

Furthermore, 8 CFR §292.2(d) sets out two levels of accreditation: practice before USCIS only ("partial") and before USCIS and EOIR ("full"); agencies may apply for either for their employees. Partial accreditation does not allow for representation in removal proceedings; there is no requirement that an agency seek full accreditation for its employees (and in fact the vast majority of currently accredited representatives are partially accredited). The regulations specifically contemplate that agencies may choose *not* to offer a "full range" of immigration legal services, including removal defense. This agency is currently seeking partial accreditation for its employee(s), and thus would not be able to offer representation in removal proceedings were its applications approved."

Proof of Nonprofit Status

- Articles of incorporation
- Agency by-laws
- 501(c)(3) letter

Include copies of all of these. If you are part of a parent agency that has a different name from your program, make sure that you include paperwork that indicates that your program is part of the parent agency, so the BIA will see that these papers do in fact relate to your program. If your agency's name has changed since any of these documents were created, make sure to include copies of the legal documentation showing the name change.

Library Resources

The EOIR-31 form requires a list of library resources with the recognition request. Make a list of all the immigration legal library resources at your agency. At a minimum, you should have access to current editions of:

- The Immigration and Nationality Act (known as the INA)
- Volume 8 of the Code of Federal Regulations (known as 8 CFR)

These contain almost all U.S. immigration laws and regulations. It is possible to access both of these for free via the internet through the USCIS website, www.uscis.gov. However, **it is an extremely good idea to budget for paper copies every year**. It is much easier to read and use the INA and 8 CFR on paper. Staff members are more likely to consult paper copies, and it is EXTREMELY important that staff who are practicing immigration law feel comfortable consulting the INA and 8 CFR.

It is **extremely important to have a general treatise on immigration law**; the most widely used one is *Kurzban's Immigration Law Sourcebook*, but there are others. **It is very difficult to practice immigration law competently without access to secondary research materials**. See Chapter Two for information on where to buy *Kurzban's*. There are many other secondary resource books on immigration law; see Chapter Two for a more complete discussion of other books you might want in your library.

In addition to the INA, 8 CFR, and *Kurzban's*, or any other general treatise list all other immigration legal materials in the agency. Include manuals from any immigration trainings your staff have attended.

There is a growing body of immigration legal materials available on the internet. Make sure to indicate that you have internet access, and list any immigration-related websites that you use and any immigration-related listservs you belong to.

Fee Schedule

The EOIR-31 requires agencies to “attach a fee schedule, if applicable,” and cites to *Matter of American Paralegal Academy, Inc.*, 19 I&N Dec. 386 (BIA 1986).

List all the immigration services your agency provides or plans to provide, and what fees you charge or plan to charge, if any. Many agencies list their fees by USCIS application number, although it's not necessary to do this; what's important is to be clear about exactly what the fee is being charged for. See Chapter Six for a complete discussion of setting fees.

The BIA requires that a recognized agency charge only “nominal” fees. The regulations do not define what a “nominal” fee is, and the few published decisions by the BIA on agency recognition do not shed much light on this issue. *American Paralegal Academy* says that the requirement of “nominal fees was not intended as a means through which an organization could fund itself,” and that “the fact that an applicant’s fees may be substantially less than those charged by law firms is not a proper standard for consideration since such organizations are not law firms.” If your budget shows immigration fees carrying the weight of the program, it is likely that the BIA will find that the fees are not nominal.

Given the paucity of published guidance from the BIA on which fees are “nominal,” most agencies turn to other agencies whose applications have been approved for guidance on fees. If your agency is part of a national network, contact your national office, as well as other members of the network, to see what their experiences with fees have been. If you are not part of a network, contact recognized agencies in your city, state, or region to see what fees the BIA approved for them. Remember, however, that the BIA will be looking at your fees not only on their own, but in the context of what percentage of your agency's funding derives from client fees. The smaller the percentage of funding that derives from immigration service fees, the better.

If your agency has a policy of providing free services to those who are unable to pay, clearly state this on the fee schedule. You may write at the top of the fee list “No one will be denied services based on an inability to pay.” Anecdotal evidence suggests that the BIA responds favorably to this.

List of Funding Sources

The EOIR-31 requires agencies to “attach . . . a detailed statement of the organization’s sources and amounts of funding other than dues or fees,” and cites to *Matter of American Paralegal Academy, Inc.*, 19 I&N Dec. 386 (BIA 1986).

Put together a list of all your agency's sources of funding, and how much you expect to receive from each source in the calendar year. Note that you are not required to—and there is generally no need to—submit any further financial reports from the agency. The purpose of this list is to demonstrate that your agency is not being funded primarily through immigration client fees. You will therefore need to be able to show that your agency has funding sources independent of client fees.

When you create your list, make sure to write out all names; do not assume that the reader of your application knows what any acronym is. Clearly state each source of funding, and list how much money you expect to receive from that source this year.

Personnel Chart

You must include “a description and/or diagram of the organizational structure, showing the supervision of staff members.” This requirement is listed on the EOIR-31 form. *Matter of Lutheran Ministries of Florida*, Int. Dec. 3132 (BIA 1990) makes clear that an agency must make clear in its application who staffs the agency, and who supervises staff.

Note that you are NOT REQUIRED to have an attorney on staff to be recognized; neither are you required to have a consulting or other relationship with an attorney, although many agencies find it very helpful to do so.

Resumes of Staff with Immigration Knowledge

The EOIR-31 form directs agencies requesting recognition to attach “resumés and any immigration training certificates for staff members. . . Any supervision or assistance provided by attorneys should be documented, including proof of the immigration expertise of the attorneys.”

Include immigration resumes for all staff with immigration knowledge and experience. If you have one or more immigration attorneys on staff, include their resumes. If you have staff who are applying for accreditation concurrently with your recognition application, include a second copy of their resumes and training certificates with the recognition application. If you have staff with immigration knowledge and experience who are not applying for accreditation at this time, include their immigration resumes as well.

If you have a consulting or other relationship with an immigration attorney, make sure to highlight this. If you are part of a national network, you may have access to immigration attorneys through your national parent agency; be sure to document this with a letter from the attorney. If you are not part of a network—and even if you are—you may seek a consulting relationship with a local immigration attorney.

Letters of Recommendation

It is an excellent idea to get several letters of recommendation from the local community that show how well-regarded your agency is, and how serious the need for low-cost, high-quality immigration legal services is. Letters of recommendation may come from local government officials, other agencies offering legal or social services to immigrants, local clergy, schools, or any other programs that know your agency’s work and can attest to the need for more immigration legal services in the community. Occasionally programs are able to get a letter of support from the local USCIS office—that does not hurt, although it is certainly not necessary.

Make sure that your recommender knows your agency’s work and can attest to what a good job you do, and that the writer understands how badly nonprofit immigration legal services are needed in your community. As with any recommendation letter, specific details about your agency make a letter much more valuable. The most valuable letter of recommendation will attest to your agency’s knowledge of and experience with immigration law.

Newspaper Articles

If you have any clippings from local papers that talk about the great work your agency has done with immigrants, you can include one or two. Note that this is absolutely NOT REQUIRED.

ACCREDITATION

Once an agency is recognized, it may request that individual staff members be “accredited.” An agency may request recognition and staff accreditation at the same time; if you are seeking both, it is generally best to request them at the same time, in order to minimize time spent waiting for decisions. There are two levels of accreditation, often referred to as “partial” and “full.”

Partial Accreditation

Partial accreditation allows the representative to practice before USCIS. This includes representing clients at USCIS interviews (e.g., adjustment of status, naturalization, and even asylum interviews); signing G-28s; speaking to USCIS officers on a client’s behalf without the client being present; signing applications as the client’s representative; and writing letters and motions to USCIS. The vast majority of accredited representatives are partially accredited. Unless you have extensive experience in immigration law, including knowledge and experience with removal proceedings, it is best to begin by applying for partial accreditation.

Full Accreditation

Full accreditation allows the representative to practice before USCIS and the Executive Office for Immigration Review, EOIR (which includes both the Immigration Court and the BIA). Fully accredited representatives may represent immigrants in Immigration Court proceedings and BIA appeals, to the same extent that attorneys do. Full accreditation does not allow a non-attorney to practice in any other courts, including state and federal courts.

Training Requirements

Just as with fees, there are no specific requirements about how many hours of training and/or experience a candidate for accreditation should have. Recommendations about how much training and experience are needed are based on what the BIA has approved in the past, as well as how much training an agency would want for its staff, to ensure that they can do adequate work.

Training and Experience: Partial Accreditation

A candidate for partial accreditation who has had no prior experience with immigration law should plan to attend several immigration trainings before applying. It is a good idea to attend an overview or survey course that introduces all the areas that nonprofits typically handle. After that, candidates should figure out which areas of immigration law they want to concentrate in, and make sure they attend trainings on those. Staff of a refugee resettlement agency would likely want training on asylee and refugee immigration issues, while staff at an agency that handles family-based immigration would want training on that topic.

Another option for gaining knowledge and experience is learning from actual practitioners. Your staff may want to consider volunteering at local immigration law office or another immigration law nonprofit. Some agencies set up “job shadowing” arrangements or internships with other nonprofits so that their staff can learn immigration work through practical experience. For staff without previous experience working in a law office, a combination of formal training with job shadowing might be an ideal way to prepare for accreditation.

Training and Experience: Full Accreditation

Full accreditation requires greater knowledge. Applicants must show that they have training and/or experience with removal proceedings and defenses to removal. Applicants for full accreditation will want to observe and, if possible, assist experienced practitioners with Immigration Court hearings before they apply.

Duration

Accreditation lasts for three years. Accredited representatives must apply to renew their accreditation every three years. If you apply for renewal 60 days or more before your accreditation expires, your accreditation will remain valid pending the BIA’s decision on the renewal application. Make sure to apply for renewal at least 60 days in advance so that you don’t have a gap in accreditation!

Accreditation Doesn’t Travel . . .

To another agency. If you are accredited at recognized Agency A, and get a new job at recognized Agency B, your accreditation does not accompany you. Agency B will need to apply for your accreditation at Agency B. Because you were previously accredited at Agency A, Agency B may apply for you as soon as you start working there.

Accreditation Allows Practice Only At the Agency that Applied for You

An accredited representative may only practice immigration law while working at the recognized agency that applied for her or his accreditation. he or she may not practice as an accredited representative

concurrently at any other agency unless that agency has also applied for and been granted her or his accreditation. It is possible for a representative to work part-time at one recognized agency and part-time at another and to be accredited at both. Agencies with more than one physical site sometimes get all their sites recognized and have their accredited representative make visits to each site; such a representative would need to be accredited only at one site, and would be able to work for the agency at its other recognized sites.

What to include in an accreditation request:

- Cover letter requesting accreditation
- Immigration resume of the applicant
- Certificates and/or agendas from immigration trainings
- Letter(s) of recommendation
- Certificates of service on USCIS and Immigration and Customs Enforcement (ICE)

Cover Letter

If you are sending an accreditation request separately from a recognition request, make sure to include a cover letter that explains exactly what (whether partial or full accreditation) and who your request is for, and how your candidate(s) meet the requirements for that level of accreditation.

Immigration Resume and Proof of Immigration-Related Trainings

Each candidate for accreditation should put together a resume that lists all immigration-related work and educational experience. List all jobs related to immigration or immigrants. If you have done immigration work, be specific about what it was. If you were working under the supervision of an attorney or an accredited representative, be sure to note that. It may or may not be helpful to include non-immigration-related work experience; consider how relevant it might be to doing immigration legal work.

List all your language capabilities. List any volunteer or community work you have done that is related to immigrants or immigration.

Include all immigration-related trainings you have attended. Make sure to include how long each training was (one day? one week?); the dates you attended; the subject of the training; and the full name of the organization that ran the training. If you have certificates from your trainings, attach copies. If you have agendas from trainings, you may attach copies of those as well. List any immigration-related webinars you have attended.

Letters of Recommendation

Your immigration resume, including all your training and experience, should demonstrate that you have knowledge and experience with immigration law. Your letter(s) of recommendation may also demonstrate your knowledge and experience; the letter(s) should also indicate that you have good moral character, the second requirement for accreditation.

Each applicant's supervisor should write a letter of recommendation describing how the writer knows the applicant; her knowledge and experience of immigration law; and her good moral character. The requirement that a candidate for accreditation have good moral character may be satisfied this way.

You may want to obtain another letter of recommendation for the applicant, from someone else who knows her work and can attest to her fitness to be an accredited representative, and her good moral character. There is generally no need to include more than two letters of recommendation.

Certificates of Service on USCIS and ICE

Remember that if you are filing an accreditation request separately from a recognition request, you will need to serve a copy on your local USCIS District Director and ICE Special-Agent-in-Charge, just as you would for a recognition request. You will need to include in the original packet to the BIA Certificates of Service that show who sent these requests, on what date, and what method he or she used to send them.

A Final Note on BIA Recognition and Accreditation Requirements

The regulations and BIA published decisions on recognition and accreditation give little guidance and direction about recognition and accreditation and the process of applying for them. Many of the recommendations in the sections above are drawn from practical experience. If you have questions about what to include in your application or how to put it together, consult with someone who has experience with these applications.

Finally: this is not a difficult process, and the process of applying is not complicated. The most time and resource-consuming part of the process is getting your staff trained. Once your staff have enough training and experience, don't let concerns about the difficulty of the application process slow you down. Hundreds and hundreds of other agencies of all sizes and in all 50 states have already applied for and been granted recognition and accreditation.

Where to Send Requests

Mail the original request packet to the BIA. The current, correct address to which to send the application is listed on the EOIR-31 form.

Send one copy each to your local USCIS District Director and ICE Special-Agent-in-Charge. The CIS and ICE addresses can be found at:

- USCIS: https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO
- ICE: <http://www.ice.gov/about/investigations/contact.htm>

Make sure that you fill out and sign the second page of the EOIR-31. This is the "Certificate of Service" that demonstrates to the BIA that you "served" copies on USCIS and ICE.

It is a very good idea to send your requests by certified mail, return receipt requested.

BIA Decision Process

USCIS and ICE will have 30 days to respond to your request(s). They may make a recommendation to the BIA either in favor of, or opposed to, your request. They may also ask for additional time to investigate your request. Note that in most cases USCIS and ICE choose not to comment at all on recognition and accreditation requests.

If, however, they do recommend against recognition and/or accreditation, they must send a copy of their recommendation to you; you will then have 30 days to submit a rebuttal letter to the BIA (again, serving copies on USCIS and ICE). The BIA is not bound by USCIS's or ICE's recommendation. The BIA will make its own decisions—so if you are one of the few agencies that gets a negative recommendation from USCIS or ICE, remember that their recommendation does not mean an automatic denial by the BIA.

The BIA will then review your application(s). Decisions on recognition and accreditation applications can take anywhere from two months to as much as a year, although they usually take three to six months. If it has been much longer than that and you have not received a decision, you may want to call the BIA Recognition and Accreditation Coordinator to ensure that your application has not been lost.

After reviewing your application, the BIA will send you a written decision. If the decision is favorable, your recognition and/or accreditation begin as of the date of the decision. Recognition never expires, while accreditation must be renewed every three years.

If the decision is unfavorable, you have two options. If you believe the BIA's decision was incorrect based on the requirements for recognition and accreditation and your agency's demonstrated qualifications, you may submit a Motion to Reopen the decision. You must submit this motion within 30 days of the decision. Your motion should lay out exactly what you think the flaws were in the BIA's reasoning, and why your agency/staff does in fact merit recognition and/or accreditation.

You may also re-apply for recognition and accreditation at any time after a denial. If you do so, make sure to address the reasons for the denial in your new application.