



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

September 5, 2018

L. Francis Cissna
Director,
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Re: Request for Emergency Correction to Form G-28 (OMB No. 1615-0105)

Dear Director Cissna:

On behalf of the American Immigration Lawyers Association (AILA), I am writing to bring to your attention an issue of significant concern regarding the May 23, 2018 edition of [Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative](#) (OMB No. 1615-0105). This issue is particularly time sensitive given that the May 23, 2018 edition of Form G-28 will become mandatory on September 17, 2018 and will significantly impact the efficient and fair adjudication of requests for immigration benefits by U.S. Citizenship and Immigration Services (USCIS). Accordingly, we respectfully request an emergency correction to the May 23, 2018 edition of Form G-28 prior to its mandatory implementation on September 17, 2018, or in the alternative, a delay in the September 17, 2018 mandatory effective date for the new form, until the required correction can be completed.

By way of background, AILA is a bar association of more than 15,000 attorneys and law professors practicing and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. Our more than 15,000 members practice and teach immigration law both in the United States as well as overseas.

Form G-28 is a Department of Homeland Security (DHS) form which gives notice to the agency that an attorney or accredited representative is representing an applicant, petitioner, requestor, beneficiary, or respondent in an immigration matter before DHS. Form G-28 is used by attorneys licensed to practice law in the United States who live and work in the United States, as well as attorneys who are licensed to practice law in the United States but who are based overseas.

Conversely, attorneys who are **not licensed to practice law in the United States** must use [Form G-28I, Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States](#). Form G-28I is used to provide notice that an attorney admitted to the practice

AILA National Office

1331 G Street NW, Suite 300, Washington, DC 20005

Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

AILA Doc. No. 18090630. (Posted 9/6/18)

of law in a country other than the United States seeks to appear before DHS in a matter outside the geographical confines of the United States.

Currently, DHS accepts several editions of Form G-28, including the May 23, 2018, May 5, 2016, and March 4, 2015 editions. Starting on September 17, 2018, DHS will only accept the May 23, 2018 edition of Form G-28.

A represented party has the option on Form G-28 to select that original notices associated with an application or petition before DHS be sent by USCIS to the attorney or accredited representatives of record. Specifically, the March 4, 2015 edition of Form G-28, which is currently accepted by USCIS until September 17, 2018, states the following on page 3, Part 4, Item 2.a.:

I request DHS send any notice (including Form I-94) on an application, petition, or request to the business address of my attorney of record or accredited representative as listed in this form.

The May 5, 2016 edition of Form G-28, which is also currently accepted by USCIS until September 17, 2018, contains similar language, but restricts the mailing of original notices on an application or petition only to the U.S. business address of the attorney of record or accredited representative. Specifically, page 3, Part 4, Item 2.a. of the May 5, 2016 edition of Form G-28 states:

I request DHS send any notice (including Form I-94) on an application, petition, or request to the U.S. business address of my attorney of record or accredited representative as listed in this form.

The May 23, 2018 edition of Form G-28 includes the same restrictive language, limiting the ability of USCIS to send original notices on an application or petition only to the U.S. business address of the attorney of record or accredited representative. Specifically, the language in the May 23, 2018 edition of Form G-28 states as follows on page 3, at Part 4, Item 1.a:

I request that USCIS send original notices on an application or petition to the U.S. business address of my attorney or accredited representative as listed in this form.

As outlined above, both the May 5, 2016 and the May 23, 2018 editions of Form G-28 only permit USCIS to send original notices on an application or petition to the U.S. business address of the attorney or accredited representative of record. Thus, once the May 23, 2018 edition of the Form G-28 becomes mandatory on September 17, 2018, attorneys who are licensed to practice law in the United States but who are based at a law firm overseas will be prohibited from receiving original notices from USCIS at their foreign business address, limiting their ability to meaningfully represent their clients on immigration matters pending with DHS. This will also hinder the efficient and fair adjudication of requests for immigration benefits by USCIS by impeding the ability of individuals who have elected to be represented by attorneys who are

licensed to practice law in the United States but who are based at a law firm overseas, from receiving full representation.

Notably, foreign attorneys admitted to the practice of law in a country other than the United States who appear before DHS in a matter outside the geographical confines of the United States have the option of receiving original notices from USCIS at the attorney's foreign address. Specifically, Form G-28I permits a represented party to request on page 2, Part 4, Item 1, that USCIS send original notices of an application or petition to the business address of the foreign attorney listed on Form G-28I. As such, there is an inconsistency between Form G-28 and Form G-28I with respect to the ability of represented parties to request USCIS to send original notices to an attorney of record based outside the United States.

In light of these consideration, we respectfully request that USCIS take one or more of the following immediate actions:

1. Conduct an emergency correction of the May 23, 2018 edition of Form G-28 by amending Part 4, Item 1.a. to remove the words "U.S. business address" and reword Item 1.a. as follows:

I request that USCIS send original notices on an application or petition to the business address of my attorney or accredited representative as listed in this form.

Such a modification would make Form G-28 consistent with Form G-28I by permitting USCIS to send original notices to an attorney of record who is based outside the United States. It would also align with USCIS's mission of efficient and fair adjudication of requests for immigration benefits by eliminating barriers to representation by individuals who have immigration matters pending with DHS.

2. Delay the September 17, 2018 date on which the May 23, 2018 edition of Form G-28 will become mandatory and continue to allow all three editions of Form G-28 (May 23, 2018, May 5, 2016, and March 4, 2015) to be accepted by DHS indefinitely, or until such time that the May 23, 2018 edition can be corrected accordingly.

We thank you for your consideration of this request and look forward to hearing from you soon. Should you have any questions, please do not hesitate to contact Betsy Lawrence, Director of Government Relations at (202) 507-7621 or blawrence@aila.org.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

Re: Request for Emergency Correction to Form G-28 (OMB No. 1615-0105)

September 5, 2018

Page 4

cc: Ms. Tracy Renaud, Acting Deputy Director, USCIS
Mr. Todd Young, Acting Chief of Staff, USCIS
Ms. Julie Kirchner, CIS Ombudsman, DHS
Ms. Stacy Shore, Deputy CIS Ombudsman, DHS
Ms. Elissa McGovern, Chief of Policy, Office of the CIS Ombudsman, DHS