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Practice Pointer

Best Practices for Preparing and Filing Form G-28

By AILA's USCIS HQ (Benefits Policy) Committee¹

The Department of Homeland Security (DHS) provides Form G-28, Notice of Appearance as Attorney or Accredited Representative, to establish eligibility to represent an individual or employer in an immigration matter before that department. The AILA USCIS HQ (Benefits Policy) Committee offers this Practice Pointer with best practice recommendations for filing Form G-28.

Documenting Representation

The Form G-28 instructions provided by DHS indicate that an attorney should file a Form G-28 for “each case.” When selecting USCIS as the DHS agency before which the appearance is to be entered, attorneys are further instructed to “list the form numbers filed with Form G-28.” Use of the plural—“numbers”—clearly signals that a single Form G-28 may be filed to enter representation in connection with more than one petition or application filed concurrently. An example of this would be the filing of a Form I-130, Petition for Foreign Relative concurrently with Form I-485, Application to Register for Permanent Residence or Adjust Status, Form I-765, Application for Employment Authorization, and Form I-131, Application for Travel Document.

Despite what is clearly permissible, the AILA USCIS HQ (Benefits Policy) Committee recommends filing a separate Form G-28 with **each** separate application or petition filed with U.S. Citizenship and Immigration Services (USCIS), even if the applications or petitions are filed concurrently. As a practical matter, practitioners may draft a single Form G-28 listing multiple form numbers and submit a separate signed G-28 with each application or petition. Doing so maximizes the probability that the G-28s will not become separated from the applications once they arrive at USCIS processing facilities.

For the benefit of those who have not had the opportunity to tour a USCIS Service Center, these facilities are massive, warehouse-like structures. Some USCIS Service Centers report receiving more than a million pieces of mail per day. The document intake process, in which batched documents arrive in crates at a loading dock, move through a mailroom to temporary storage, then on to a workstation, presents seemingly infinite opportunities for filings to become separated from a single Form G-28.

Furthermore, upon arrival at a Service Center, batched applications and petitions for each case may be separated from a single Form G-28 since the various “product lines” may be adjudicated at different times by different teams at the USCIS facility. They are also now often scanned into

¹ Special thanks to AILA USCIS HQ (Benefits Policy) Committee members Kenneth Harder and Rita Sostrin for their contributions to this practice pointer.

an electronic system to allow for officers to review the applications without the need for the physical file, and the individual conducting the scanning process may not remember to include a G-28 included with one application in the scan of another batched application.² Throughout these processes, there are many opportunities for a single Form G-28 to be separated from any one application filed in a batch for a single matter.

To state the obvious, filing a separate Form G-28 with each application filed concurrently for a single matter requires attorneys to prepare and sign multiple Forms G-28. However, by following this recommendation, attorneys can minimize the possibility that a G-28 could be inadvertently separated from an application during the lengthy, multi-stage intake and adjudication process at USCIS facilities.

Documenting G-28 Proxy Signatures for Minors

DHS will recognize only “a properly completed Form G-28 that was signed by the attorney . . . and the client.” If the client is a minor under the age of 14 or a mentally incompetent person, a parent or legal guardian may sign the Form G-28 on behalf of that individual. Children 14 years of age or older must sign on their own behalf. If a parent signs on behalf of a child, the parent must submit a birth certificate or adoption decree to establish the parent-child relationship. However, Form G-28 does not request the date of birth of a client for whom an attorney is entering an appearance, nor is there a specific place to indicate the mental incapacity of a person being represented. While the date of birth appears on the underlying petition or application, this trusts the diligence of the USCIS employee to consult the information on the separate document. Anecdotally, some Forms G-28 have been rejected when signed by a parent in the absence of information about the age of the person being represented. Some Forms G-28 have also been rejected where parents signed them for children 14 years old and older.

When the person being represented is either a minor under the age of 14 or is mentally incapacitated and a parent or legal guardian will sign the G-28, the AILA USCIS HQ (Benefits Policy) Committee recommends providing this additional information on page four, Part 6 of the Form G-28. While there appears to be no legal requirement to provide such information, by doing so, attorneys minimize the possibility that USCIS will reject the G-28 as improperly signed.

² While not directly relevant to the issue of the G-28, the scanning process directly affects the case intake process. Practitioners should generally avoid stapling documents together or including documents that are bound such as a book, magazine, or formal report. These have to be manually separated to allow the scanning to occur and could easily be inadvertently dropped from the scan altogether.