



## CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

New Rule on Recognition & Accreditation  
Part 2  
Recording on December 20, 2016

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### Presenters



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### Webinar Logistics

- This is a recorded, rather than live, webinar
- A live webinar with EOIR and CLINIC will be on January 11 at 2:00 pm Eastern and recording posted to our website
- CLINIC's press release can be found at: <https://cliniclegal.org/news/clinic-welcomes-change-immigration-ra-program>
- Some content in this webinar may be incomplete because questions remain following the release of the new regulations



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## Overview of Webinar Series

- **Webinar 1**
  - Background and overview of changes
  - New, Final Rule to Agency *Recognition*
- **Webinar 2**
  - New, Final Rule to Staff/Volunteer *Accreditation*
  - Filing applications
  - Administrative termination and sanctions

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## Webinar 1 of 2 part series

- *New Rule on Recognition and Accreditation*  
*Webinar Part 1*

<https://cliniclegal.org/resources/new-rule-recognition-accreditation>

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## EOIR's Purpose for Rule Change

- Promote effective and efficient administration of representation before DHS and EOIR by increasing the availability of competent non-lawyer representation for underserved immigrant populations
- Clarify the process for applying for R & A and facilitate the ability of orgs. and representatives to serve persons before DHS and EOIR
- Balance increase in # of R & A with greater oversight and accountability for nonprofit management and accrd. rep. legal services
- Combat unauthorized practice and fraudulent activity

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## Agenda

- Qualifications for Accreditation
  - Knowledge and experience
  - Character and fitness
  - Application for R&A (EOIR and EOIR31A forms)
  - Validity periods and renewals
  - Administrative terminations and sanctions

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## Knowledge and Experience, § 1292.11(a)(4) and (6)

- Accred. reps. must show they possess broad knowledge and adequate experience in line with *Matter of EAC* and *Matter of Central California Legal Services, Inc.*
- Does not require a specific number of hours, courses, or testing
- OLAP intends to provide future guidance on this subject so organizations may better understand what standard accreditation is working towards
- CLINIC's new page on training for R&A:  
<https://cliniclegal.org/accreditation>

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## Character *and* Fitness for Accredited Representatives, §1292.12(a)(1)

- Remember that each recognition application must be accompanied by at least one accredited representative application as well
- Accreditation is available for staff and/or volunteers of recognized agencies
- New rule replaces past good moral character requirement with character *and* fitness
- Similar standard for attorneys being admitted to a state bar to practice law
- Documentation of character and fitness:
  - Authorized Officer must attest in writing the honesty, trustworthiness, diligence, professionalism and reliability of each accredited representative candidate evidenced in cover letter, and by signing Form EOIR-31A
  - Submitting a favorable background check OR letters of recommendations

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## Nexus between Immigration Status and Character and Fitness, §1292.12(a)(1)

- Proposed rule remains unchanged
- Immigration status *may* be considered as a factor in certain circumstances
- Has been factored in the past so this isn't really new
- Not likely to consider applicants who:
  - are in active deportation, exclusion or removal proceedings
  - been issued notice of intent to revoke to terminate status
- Similarly individuals who are under an order of removal will generally not be eligible for accreditation
  - Case by case assessment if applicant has a conflict of interest due to immigration status and can meet character and fitness requirement

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## Accreditation is not for . . . , § 1292.12(a)(3)-(5)

- Attorneys
- Individuals under an order restricting their practice of law
- Individuals convicted of a serious crime

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## 2 Types of Accreditation

- Full and Partial
- Can request change from partial to full at any time
- Qualifications for full accreditation are greater than partial and will be carefully scrutinized by OLAP

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## OLAP's Initiatives to Facilitate the Application Process

- OLAP will conduct public education to help others, including USCIS, understand the process
- OLAP seeks input from USCIS for each application
- OLAP will publicize list of USCIS district directors who must be served full copies of all R & A applications
- OLAP is planning to accept electronic applications, rather than by post
- OLAP is planning to transmit electronic approvals, denials, inquiries for more information and determinations termination rather than by post

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## Application: Updated EOIR 31 and 31A forms

- Updated EOIR 31 and EOIR 31A forms should ease the transmission of information for OLAP's consideration

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## Applying for A

- EOIR-31A will be required (no longer optional) to apply for first-time accreditation and renewal
- Proof of service for USCIS only, no longer includes ICE
- Requires service on USCIS district office(s) where organization provides or intends to provide services

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### New Option to Seek Reconsideration for Recognition

- Final rule allows previously rejected recognition applicants to ask OLAP to reconsider
- Provides orgs whose requests for reconsideration are denied to seek administrative review before the Director.

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### Extending R & A, §1292.15

- Gives OLAP discretion to extend recognition to additional locations under main office (without a separate application process)
- Submit Form EOIR-31 to request recognition for an additional (i.e. "extended") location, affirming that all recognition requirements are met
- Must have at least one accredited representative identified for the additional location(s)

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### Validity Period, § 1292.12(d) and 11(f)

- Recognition will be valid for 6 years and shall be renewed
- Accreditation will continue to be valid for 3 years and shall be renewed
- Recognition renewal on a 6 year cycle will be independent of accreditation 3 year cycle for renewal, §1292.16(b)

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## Renewal of Accreditation

- File EOIR-31A to renew accreditation
- Submit BIA resume, training certificates, optional background check or references for character & fitness, copy of previous grant of accred. and agency recognition grant

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## Administrative Termination for Recognition, § 1292.17(b)(5), (6), (c)(6)

Circumstances include:

- Voluntary request termination by the recognized organization
- Not requesting renewal
- Renewal was disapproved
- Failing to respond to OLAP's notice of deficiencies – i.e. failure to maintain qualification or uphold reporting, record-keeping and posting requirements
- Failing to make corrections for deficiencies
- Failing to lift inactive status with an approved accredited representative

Note: termination of recognition also terminates everyone's accreditation tied to the org.  
Note: termination is not a permanent bar to becoming recognized again

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## Administrative Termination for Recognition

- Request for reconsideration is added to this change
- Ability to be on inactive status for a pre-determined period of time is also added to this rule

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## Sanctions Against Recognized Organizations, §1003.108(b)

Sanctioning could result in

- Revocation – removes the nonprofit from the roster and permanently bars from future recognition; and
  - Termination – removes but does not permanently bar from reinstatement
- Note that EOIR does not make suspension a sanctioning option

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## Sanctions Against Recognized Organizations

EOIR already sanctions:

- attorneys;
- BIA accredited representatives; and
- other practitioners for misconduct; adding
- recognized organizations to the list for sanctioning

Process involves:

- taking complaints
- determining if there is merit to the complaint
- OLAP may informally resolve the matter, or EOIR or DHS disciplinary counsel may initiate formal proceedings

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## Evaluation Misconduct for Sanctioning Purposes

- Intentionally
- Knowingly
- Inadvertently
- Harm caused
- Aggravating or mitigating factors

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## Points for Consideration

- Vetting new employees and volunteers is increasingly important
- Reminder systems are necessary to renew R & A on a timely basis
- Full Accreditation is beneficial to represent persons in removal proceedings
- EOIR 31 and 31 A forms are mandatory but sometimes forgotten in the application

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## Points for Consideration

- Ongoing immigration law training is essential for good practice and renewal
- Recognition to sub-offices can be done without a full application
- Attention to good supervision and management practices can help avoid termination or sanctions

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## Resources

- EOIR BIA R & A Website  
<http://www.justice.gov/eoir/recognition-and-accreditation-program>
- BIA R & A Toolkit and Step-by-Step Guide  
<https://cliniclegal.org/R&A>
- Sign-up for CLINIC announcements <https://cliniclegal.org/>

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## Join CLINIC's Network for Help

- CLINIC's network includes Catholic members and non-Catholic subscribers
- All affiliates must be federally tax-exempt
- Benefits are many but include:
  - Counsel on completing a R and/or A application
  - Editing of a final draft application
  - CLINIC letter to OLAP listing affiliate benefits including access to CLINIC's attorney-of-the-day help line

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## CLINIC Affiliation Can Help, cont'd.

- Subscription benefits listed and request for application posted here:  
<https://cliniclegal.org/affiliates/subscription>
- Applications vetted with input from local partners in your community taking 30 days or more
- Annual dues are \$1,500 but pro-rated in half for 2<sup>nd</sup> half of the year approvals

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## CLINIC's Next Steps

- Convene R & A Liaison Group of nonprofit advocates
- Seek OLAP clarification in FAQ format
- Participate in community education meetings
- Update its R & A Toolkit including *Step by Step Guide* with sample applications
- Host training opportunities on R & A
- Edit R & A applications for CLINIC affiliates
- Work with USCIS on corresponding updates

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## R&A Advocacy – Feedback Requested

- For R&A Initial Feedback & Questions, contact our team at [Advocacy@cliniclegal.org](mailto:Advocacy@cliniclegal.org)
- USCIS Engagement Survey (This survey should take about 5 minutes to complete. Your feedback will help us to better understand USCIS' current role in the R&A process.)  
<https://cliniclegal.org/toolkit/ra/survey>



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