



October 12, 2022

Submitted via Federal Express and via email

Lauren Alder Reid
Assistant Director
Office of Policy
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2500
Falls Church, Virginia 22041

Re: Comments on OMB No. 1125-0013, Agency Information Collection; Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative (Form EOIR-31A)

Dear Ms. Alder Reid:

The undersigned 69 nonprofit immigration legal services agencies that are affiliates of the Catholic Legal Immigration Network, or CLINIC, submit these comments in opposition to the proposed revisions in the Executive Office for Immigration Review's (EOIR) Information Collection for Form EOIR-31A, Request by Organization for Accreditation or Renewal of Accreditation of Non-Attorney Representative.

Our agencies provide legal services that include family-based immigration, naturalization, applications for humanitarian visas or status, asylum, and relief from removal. We are stakeholders in the DOJ Recognition and Accreditation (R&A) program and we depend on it to build the capacity of our legal services programs to serve low-income and indigent immigrants in our communities. Having a streamlined and efficient application process for recognition and accreditation is essential to nonprofit organizations that operate on limited budgets and with finite resources.

We oppose the proposed changes not only in this new 2022 version of Form EOIR-31A, but also in the previous 2020 version of the form. CLINIC objected to deficiencies in the 2020 information collection process for this form, and as a result, OLAP has continued to accept the 2017 version. During the 2020 commenting period, OLAP provided CLINIC with an erroneous version of the 2020 proposed form, and therefore stakeholders did not have meaningful notice or opportunity to comment on those proposed changes. Because many of the changes in the 2020 version have been maintained in the 2022 version, and a full and complete commenting process has never been completed on the changes in the 2020 version, we object to the changes in both the 2020 version and the 2022 version. We recommend that EOIR withdraw both the 2022 and 2020 proposed changes to this form and revert to the Jan. 2017 edition of the form.

In the remainder of these comments, the term “proposed changes” refers not only to the redlined changes in the 2022 version, but also the changes made in the 2020 version which were not properly introduced for notice or comment.

We urge EOIR to revert to the 2017 version of the form for several reasons. This Information Collection attempts to change regulation through the form revision process, rather than going through the notice and comment process under the Administrative Procedures Act (APA). Several of the proposed changes increase the evidence required in order to qualify for accreditation in ways that are not supported by the current regulations. If DOJ wishes to increase the evidence required to qualify for the program, it would need to introduce these changes as full regulatory rulemaking under the APA, rather than a change to the form.

Further, this Information Collection creates a significant increase in information and documentation contrary to the goals of the Paperwork Reduction Act (PRA), which seeks to reduce the paperwork burden on individuals and organizations.

We will detail some of our primary objections below. These concerns are not an exhaustive list of the objections of all signing organizations, and some may submit individual public comments to address additional concerns.

Previous Applications (Part 2A)

Part 2A of the proposed form requires applicants to describe any previous applications that have been submitted to the R&A Program on this representative’s behalf, by the sponsoring organization or any other, and list the date submitted, the name of the applicant organization, and the outcome of the application. This request is burdensome and asks for information that OLAP should already have in its records.

Many applicants do not have this information easily available to them and would struggle to obtain it, especially for staff with many years of experience. This new requirement would lead to significant delays in completing the application process thereby disincentivizing the best of the accredited representatives from renewing their accreditation.

Submission of information about previous accreditation applications is not required by the regulations. In order to renew accreditation according to the regulations, an applicant need only demonstrate that they meet the same requirements needed for initial accreditation and that they continued to receive training in immigration law and procedure.¹ Requiring that the applicant also submit their accreditation history is not supported by the regulations. We recommend that EOIR remove this question as it is unnecessary and burdensome.

Direct Legal Representation for Renewal (Part 2B)

Part 2B of the proposed form has a new question for those who are renewing accreditation. The question asks how frequently the representative has provided direct legal representation before USCIS or EOIR. The corresponding instructions on p. 5 state, “For renewal of accreditation

¹ 8 C.F.R. § 1292.16 (c)(2) (2003).

applications only, indicate approximately how often during the past three years the Accredited Representative has entered an appearance before USCIS and EOIR on Forms G-28, E-28, or E-27.” This question is unclear, burdensome, and unnecessary. It should be removed.

The regulations do not require demonstrating prior appearance in cases for renewal of accreditation. They only require that applicants continue to meet the requirements for initial accreditation and have continued to receive formal training in immigration law and procedure commensurate with the services the organization provides and the duration of the representative’s accreditation.² Because a description of past direct legal representation is not a requirement to renew accreditation under the regulations, this question is irrelevant and unnecessarily burdensome, and should be removed.

Date of Birth (Part 2C)

In Part 2C of the proposed form, there is a new question requiring the applicant’s date of birth for the background check. In the instructions for Form EOIR-31A, there is a Privacy Act Notice that states in relevant part, “EOIR may share the information provided with this form with others in accordance with approved routine uses.” An applicant’s date of birth is personally identifiable information (PII). Because DOJ intends to collect additional PII on this form, more clarification is needed in the privacy notice to indicate what “routine uses” would justify sharing this information.

Representative’s Background - Character and Fitness (Part 2C)

In Part 2C, the proposed form has a series of five questions pertaining to the applicant’s character and fitness. These questions should be removed, and OLAP should revert to the method used in the 2017 version of the form, which aligns with the regulations’ reliance on the applicant’s attestation and the authorized officer’s attestation based on what an authorized officer can reasonably be expected to know about its volunteers and employees. It is unreasonably burdensome to require a signing authorized officer on behalf of an organization to conduct a legal analysis of an individual’s past to determine if he or she “ever committed prior acts involving dishonesty, fraud, deceit or misrepresentation,” or has “ever been found guilty of, or pleaded guilty or nolo contendere to, a serious crime...in any court anywhere in the world.” These questions are beyond the scope of the regulations, are vague and intrusive, and will discourage the applicants from going forward with seeking accreditation. Furthermore, depending on state laws, an employer asking such questions of their employees can expose the employer to litigation liability or Equal Employment Opportunity Commission (EEOC) complaints.

Conclusion

All told, the changes to the EOIR-31A add many new requirements that are not supported by the regulations. While some of these changes may seem small, the cumulative effect of these changes is to require a significant amount of new information, none of which is necessary for the approval of recognition or accreditation. These questions would be an unnecessary burden to individual applicants, their employers, and the agency that would need to evaluate this complex and sensitive information.

² 8 C.F.R. § 1292.16(c)(2) (2003).

If the agency wishes to raise the evidentiary burden for applicants—which we strongly oppose—it would need to change the underlying regulations through the more rigorous APA notice and comment process, not by simply making changes to the form. EOIR should revert to the January 2017 edition of Form EOIR-31A, as it more closely matched the requirements set out by the regulations.

Thank you for the opportunity to submit comments on the proposed form changes.

Sincerely,

ACCESS of WNY – *Lackawanna, NY*
Advocates for Immigrant Rights – *Memphis, TN*
African Cultural Alliance of North America Inc – *Philadelphia, PA*
All Saints Immigration Services – *Jackson, TN*
Arkansas Immigrant Defense – *Springdale, AR*
Bridging the Gap Project, Inc. – *Atlanta, GA*
Canopy NWA – *Fayetteville, AR*
CARECEN – *Washington, DC*
Catholic Charities Diocese of Gary Inc – *East Chicago, IN*
Catholic Charities Diocese of Lubbock – *Lubbock, TX*
Catholic Charities Diocese of Palm Beach – *Palm Beach Garden, FL*
Catholic Charities Eastern Washington – *Spokane, WA*
Catholic Charities Family & Community Services – *Rochester, NY*
Catholic Charities of Acadiana – *Lafayette, LA*
Catholic Charities of Arkansas Catholic Immigration Services – *Little Rock, AR*
Catholic Charities of Dallas, Inc. Immigration and Legal Services – *Dallas, TX*
Catholic Charities of Eastern Oklahoma – *Tulsa, OK*
Catholic Charities of Long Island - Immigrant Services – *Amityville, NY*
Catholic Charities of Louisville, Inc. – *Louisville, KY*
Catholic Charities of Southwest Kansas, Inc – *Dodge City, KS*
Catholic Charities of Tennessee, Inc. – *Nashville, TN*
Catholic Charities of the Diocese of Owensboro – *Owensboro, KY*
Catholic Charities of the Texas Panhandle – *Amarillo, TX*
Catholic Charities of Tompkins/Tioga – *Ithaca, NY*
Catholic Community Services of Utah – *Salt Lake City, UT*
Catholic Community Services of Western Washington: Catholic Immigration Legal Services–
Seattle, WA
Catholic Social Services Alaska – *Anchorage, AK*
Center for Social and Rural Development Inc. – *Eules, TX*
Centro Hispano Comunitario De NE – *Columbus, NE*
City of Jersey City – *Jersey City, NJ*
Community Center for Immigrants – *Milwaukee, WI*
Comunidad Maya Pixan Ixim – *Omaha, NE*
Cristo Rey Center – *Fostoria, OH*
CUASVAHH Inc. – *Jacksonville, FL*

El Centro of Topeka – *Topeka, KS*
GTX Connect – *Georgetown, TX*
Hamkae Center – *Annandale, VA*
Hand In Hand Multicultural Center – *Springfield, MO*
Holy Cross Ministerio Hispano – *Kernersville, NC*
Iowa Migrant Movement for Justice – *Des Moines, IA*
Immigrant Community Development Center Inc. – *Springfield, MA*
Immigrant Connection at El Camino – *Greenville, SC*
Immigrant Connection- Greenville Multicultural Church – *Greenville, SC*
Immigrant Law Center of Minnesota – *Saint Paul, MN*
Immigration Service and Aid Center (ISAAC) – *San Antonio, TX*
Inspiritus, Inc. – *Atlanta, GA*
Journey's End Refugee Services – *Buffalo, NY*
Latin American Coalition – *Charlotte, NC*
Latin American Community Center – *Wilmington, DE*
Long Island Immigration Clinic/Sisters of St. Joseph – *Brentwood, NY*
Louisiana Organization for Refugees and Immigrants – *Baton Rouge, LA*
Macomb Immigrant Service Center – *Fraser, MI*
Mi Casa Community Services – *Winston-Salem, NC*
Migrant & Immigrant Community Action (MICA) Project – *St. Louis, MO*
Multicultural Self-Sufficiency Movement – *Lakewood, WA*
New Hope Immigration Legal Services at New Hope Free Methodist Church – *Rochester, NY*
New Hope Presbyterian Church d/b/a New Hope Office of Immigration Services – *Orlando, FL*
Opening Doors International Services, Inc. – *Denton, TX*
Pacific Gateway Center – *Honolulu, HI*
Rays of Freedom Org – *San Antonio, TX*
Restoration Immigration Legal Aid – *Arlington, VA*
SAATHI of Rochester, Inc. – *East Rochester, NY*
Shiloh Terrace Baptist Church – *Dallas, TX*
Sierra Community House – *Truckee, CA*
St. Francis Community Services, Catholic Legal Assistance Ministry – *St. Louis, MO*
St. James Cathedral Immigrant Assistance – *Seattle, WA*
The Ark at Congregation Beit Simchat Torah – *New York, NY*
The Diversity Service Center of Iowa – *Muscatine, IA*
Thrive International Programs, Inc. – *Williamsport, PA*