

Adjudicator's Field Manual

NOTE: The [USCIS Policy Manual](#) is our centralized online repository for immigration policies. We are working quickly to update and move material from the Adjudicator's Field Manual to the Policy Manual. Please check that resource, along with our [Policy Memoranda](#) page, to verify information you find in the Adjudicator's Field Manual. If you have questions or concerns about any discrepancies among these resources, please contact PolicyFeedback@uscis.dhs.gov.

Chapter 15 Interviewing.

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15.1 Interview Policies.

(a) General.

In accordance with **8 CFR 103.2(b)(9)**, an applicant, a petitioner, a sponsor, a beneficiary, or other individual residing in the United States at the time of filing an application or petition may be required to appear for an interview.

This chapter discusses policies and procedures to be followed in conducting interviews that involve immigration benefits. The basic principles for conducting interviews are outlined and defined below. The policies set forth below apply to all officers, and all personnel interviewing applicants for immigration benefits should be familiar with the contents of this chapter. No adjudicator should be assigned to conduct interviews until his/her first line supervisor is satisfied that the officer is fully competent to do so.

The purpose of an interview is to obtain accurate and complete information from the individual and to make a determination regarding the individual's credibility. The fundamental objective is to obtain the facts necessary to make a correct decision. Therefore, the length of the interview may vary for many reasons including, but not limited to the following:

- The amount and complexity of material being covered;
- Any fraud indicators that may be present;
- The number of individuals interviewed in connection with the case;
- The degree to which all required documents have been submitted;
- The need for an interpreter or the need to tailor questioning to an individual's background and experience; and
- The degree and ease with which IT, recording and other equipment is used.

Interviews conducted by adjudication officers are non-adversarial in nature, as opposed to a court proceeding involving two attorneys where each advocates a particular position.

Developing the skills necessary to conduct such an interview takes time and practice, there are a number of reference guides that can be of assistance. Please see **Appendix 15-2** .

(b) Scheduling Interviews and Evaluating Requests for the Rescheduling of Interviews .

(1) Scheduling Interviews .

Local, regional or national priorities may set standards for the number of interviews scheduled for assigned officers on a daily or weekly basis. These standards relate to average interview times, rather than limiting individual interview times.

If some officers are on unscheduled sick or annual leave, the others in the office must pick up the slack. Likewise, if backlogs grow beyond acceptable limits there may be a need to increase the rate temporarily (usually in conjunction with other steps, such as details and overtime) in order to bring the backlog back under control.

In most instances, a single interview will resolve all issues. A second interview should be scheduled in exceptional circumstances, such as when additional information relevant to the case becomes known to the case officer after the initial interview. For this reason, interviews should not be scheduled until all other information, including background checks and relating files, have been reviewed.

Several options are available in organizing the work week to achieve the desired number of interviews per week, depending on the needs and preferences of the office and the officer.

- AWS options - Offices which allow adjudicators to work Alternate Work Schedules need to adjust the daily interview rate accordingly. Officers working 10 hour days in four day weeks should be scheduled for 25% more interviews per day than officers working 8 hour / 5 day workweeks.
- No-show rates - If the office regularly experiences a high number of applicants failing to appear for their scheduled interview, the office will need to schedule a higher number of cases in order to reach planned production goals.
- Preferences on write-up time - One officer may be more comfortable (and effective) preparing written decisions on the day of interview, another may prefer to wait until the end of the week.

Generally speaking, the preferences of the adjudicator should be followed, provided the needs of the office are not adversely affected. However, regardless of when the cases are written-up, the interviewer must create an effective record (paper, audio, audio/visual or electronic) of the proceedings at the time of the interview.

- Availability of overtime - Additional time should result in a comparable amount of additional work produced. If overtime is authorized for the purpose of completing more interviews, the interview schedule must be increased accordingly.

Interviews should be conducted as close to the scheduled time as possible. As a general rule, the public should not be required to wait for more than 30 minutes beyond a scheduled interview time. Schedules should be adjusted if it is determined that waiting times regularly exceed this time frame.

(2) Evaluating Requests for the Rescheduling of Interviews. (See **8 CFR 103.2(b)(9)**)

Prior to and at the date and time of the interview, an applicant or petitioner may (a) withdraw the application or petition; or (b) request, for good cause, that the interview be rescheduled.

In order to reschedule the interview, the adjudicator, in his or her discretion, must determine that the applicant, petitioner, beneficiary, or other individual is unable to appear at the scheduled date and time because of circumstances beyond the individual's control.

If the adjudicator determines that good cause exists for the applicant or petitioner's request, the adjudicator will reschedule the interview and mail a new interview notice. If the adjudicator determines that no good cause exists, the adjudicator will adjudicate the application or petition as instructed in **AFM Chapter 15.1(d)(2)** .

An attorney or representative authorized to act on behalf of the applicant or petitioner may also submit a good cause request for rescheduling the interview.

If an attorney or other representative is unable to attend an interview for good cause, the local office should make best efforts to accommodate a timely request to reschedule an interview. Such requests are considered to be for good cause when the attorney or other representative has notified the local office that he or she is unable to appear at the scheduled date and time because of circumstances beyond his or her control, including but not limited to, scheduling conflicts resulting from a requirement that the attorney or other representative appear in court, previously planned travel, and any situation where two interviews of clients represented by the same attorney or representative are scheduled at the same time.

When an attorney or other representative is unable to attend the interview for any reason, the individual being interviewed may elect to proceed with the interview without his or her representative. The applicant's or petitioner's decision to proceed without his or her attorney or accredited representative must be voluntary. If the individual wishes to proceed without his or her representative, the USCIS official

should obtain a written statement from the individual. Written statements are to be filed in the record of proceedings. When possible, the attorney or accredited representative should communicate his or her consent to proceed without him or her present. The officer should still consider statements and submissions by the individual's attorney or other representative in his or her absence.

(c) Arrest of an Alien During the Interview Process .

(1) General .

As a general rule, any alien who appears for an interview before a USCIS officer in connection with an application or petition seeking benefits under the Act shall not be arrested during the course of the interview, even though the alien may be in the United States illegally.

If the alien is ineligible for the benefit being sought, the interviewing officer should advise the alien that he or she will receive a written decision on the application or petition by mail.

The officer may (at the officer's discretion) also verbally advise the alien of the anticipated nature of the decision, what the alien's available options might be (appeal the decision, renew the application in proceedings before the Immigration Court, etc.), when the officer anticipates the decision will be mailed, etc. The alien will then be allowed to depart from the office.

Note
This general rule applies only to adjudication scenarios. It does not apply to inspection scenarios (at ports of entry or during proceedings involving deferred inspection or completion of parole), or enforcement scenarios.

(2) Exceptions to the General Rule .

In some cases, an illegal alien's actions or situation may be so egregious as to justify making an exception to the general rule that those who appear voluntarily for an interview should not be arrested during the course of that interview. Such actions and situations include, but are not limited to:

- An alien who is the subject of an outstanding warrant of arrest for criminal violations;
- An alien who during the course of the interview assaults another party, e.g., the interviewing officer, a government clerk, a government attorney, or a co- interviewee (such as a spouse or child);
- An alien, who during the course of the interview, willfully destroys government property or commits any other crimes of such nature and magnitude;
- The alien is a threat to the safety or well-being of another party;
- An alien who is the subject of a previously-issued warrant of deportation or warrant of removal, **UNLESS** the alien is seeking benefits under a provision of a law (e.g., NACARA or HRIFA) which specifically allows an alien under an order of deportation or removal to seek such benefits; or
- Any other similar action or situation, which in the view of district management, warrants placing the alien under arrest

(3) Procedure .

If an interviewing officer believes that an alien's situation or actions fall within the guidelines set forth in Chapter 15.1(c)(2) above, he or she shall refer the matter (through his or her supervisory chain of command) to the local Investigation Branch in accordance with established local procedures.

The actual decision as to whether to place the alien under arrest shall be made by the appropriate Enforcement Branch personnel in accordance with established procedures.

(d) Failure of an Applicant, a Petitioner, a Sponsor, a Beneficiary, or Other Individual to Appear for a Scheduled Interview . **[Added on 11-23-2005]**

If an applicant, a petitioner, a sponsor, a beneficiary, or other individual fails to appear for a scheduled

interview, the adjudicator is directed to comply immediately with the following instructions and either reschedule the interview or deny the related application or petition for abandonment.

(1) Evidence of Request for Rescheduling of the Interview or Notification of Change of Address .

(A) Request to Reschedule the Interview .

The adjudicator must verify whether the individual required to appear for an interview has requested rescheduling of the interview. If the adjudicator finds a request to reschedule the interview that was submitted prior to the date and time of the interview, the adjudicator should evaluate the request in accordance with the instructions listed in section **Chapter 15.1 (b) (2)** of this chapter.

(B) Notification of Change of Address .

The adjudicator must confirm whether the individual required to appear for an interview has submitted notification of a change of address. The adjudicator is required to:

(i) Check local pertinent electronic systems, such as CLAIMS, and pertinent physical records, particularly the file of the application or petition under consideration and any AR-11 (Change of Address) notices, to verify whether any change of address notification was received before or after the interview notice was sent.

(ii) Query the USCIS National Systems AR-11 (Change of Address) database by name and date of birth, A-number, and/or I-94 admission number, if necessary, to confirm whether any changes of address have occurred after the interview notice was generated and mailed.

(iii) Contact the National Benefits Center (NBC) by e-mail at NBC Failure to Appear Review, if necessary, to determine if the Service Request Management Tool (SRMT) contains a pending change of address notification.

When contacting the NBC, the adjudicator must use the **SRMT Search Request Form** , as found in **Appendix 15-3** . Where possible, each office should submit a consolidated list of queries using one SRMT Search Request Form.

(iv) Reschedule the interview and mail a new interview notice to the new address, if a change of address notification is confirmed.

(2) Effect of Failure to Appear for an Interview or to Respond to a Request for Appearance . (See **8 CFR 103.2(b)(13)**)

(A) Adjudication .

Except as provided in subsection (B) below, a related application or petition under consideration is abandoned and the adjudicator will deny the related petition or application accordingly if:

(i) an individual fails to appear for a scheduled interview; and

(ii) USCIS does not receive the individual's request for rescheduling by the date of the interview, USCIS does not find notification of a change of address, or the applicant or petitioner has not withdrawn the application or petition.

(B) Applicants for Naturalization . (See **8 CFR 335.6**)

The regulations at 8 CFR 335.6 govern the denial of applications for naturalization when an individual fails to appear for his or her naturalization examination, as required. 8 CFR 335.6 provides that:

(i) An applicant for naturalization is deemed to have abandoned his or her application if he or she fails to

appear for the examination pursuant to **8 CFR 335.3** and fails to notify USCIS of the reason for non-appearance within 30 days of the scheduled examination.

Such notification must be in writing and contain a request for rescheduling of the examination. In the absence of a timely notification, USCIS may administratively close the application without making a decision on the merits of the application.

(ii) An applicant may reopen an administratively closed application by submitting a written request to USCIS within one (1) year from the date the application was closed. Such reopening shall be without additional fee. The date of the request for reopening will be the date of filing of the application for purposes of determining eligibility for naturalization.

(iii) If the applicant does not request reopening of an administratively closed application within one year from the date the application was closed, the USCIS will consider that application abandoned and will dismiss the application without further notice to the applicant.

Note [Note added 04-15-2009]

For specific processing instructions regarding Applications for Naturalization filed by members of the U.S. Armed Forces or veterans under sections **328** or **329** of the INA, please refer to **Appendix 15-4**, "Processing N-400s Filed under INA 328 and 329 When Applicant Fails to Respond to a Request for Evidence or for Appearance."

(3) Effect of Withdrawal or Denial Due to Abandonment.

(A) General.

USCIS acknowledgement of a withdrawal may not be appealed. A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen under **8 CFR 103.5**. Withdrawal or denial due to abandonment does not preclude the filing of a new petition or application with a new fee. The priority or processing date of a withdrawn or abandoned application or petition, however, may not be applied to a later application or petition. (See **8 CFR 103.2(b)(15)**)

(B) Rescheduling of Interviews.

When an application or petition was denied based on an individual's failure to appear for a scheduled interview, the adjudicator may reopen the application or petition without charging an additional fee to the applicant or petitioner if the adjudicator confirms that:

(i) a request demonstrating good cause for rescheduling the interview was postmarked, faxed, or received telephonically before the date and time of the scheduled interview but not processed and evaluated by USCIS prior to adjudication of the application or petition; or

(ii) a notification of a change of address was received prior to adjudication of the application or petition.

In these instances, the adjudicator should reschedule the interview and mail a new interview notice.

15.2 Interview Environment.

(a) Adjudications Environment

It is essential that the person being interviewed appreciate the importance and seriousness of the proceedings. To ensure this, the setting in which the interview takes place must be orderly and official in appearance. Desktops should be uncluttered and files should be housed in cabinets. Flags, USCIS and DHS seals and other official displays can enhance the official appearance. Excessive amounts of personal items should not be displayed in view of applicants, as these may be distracting or detract from the serious nature of the proceedings.

Because adjudications units in local USCIS offices are generally very busy with a high volume of applicants appearing for interviews, it is essential that adequate office space be provided for each district adjudications officer.

Sufficient seating for the officer and the person being interviewed, attorney or other representative and family members should be provided. The attorney or other representative should be seated directly next to the person being interviewed to facilitate appropriate participation unless this cannot be accommodated due to the physical layout of the interview space. If the officer has a concern that the seating arrangements may be inhibiting or negatively impacting the interview process, he or she should contact a supervisor for guidance.

(b) General Office Environment

Ideally, individual offices or high-walled, acoustically insulated, modular offices with doors should be provided to ensure a reasonable level of privacy. Offices should be equipped with video or audio taping devices. If the district lacks sufficient recording equipment, arrangements should be made to provide such equipment for, at least, the most difficult cases. Each work station should be provided with sufficient storage space for files, supplies, research materials and personal items, so that the office remains uncluttered. Acoustical ceiling tiles or other sound dampening material should be installed to minimize noise from other interviews and protect the privacy of each applicant. Lighting and ventilation should be adequate for a pleasant, comfortable and efficient working environment. USCIS will make every effort to make reasonable accommodations for applicants with disabilities. When possible, the public waiting area should be reasonably near the interview area to minimize lost time between interviews.

15.3 Officer Conduct and Appearance.

(a) Appearance.

It is imperative that the officer conducting the interview dress in a professional manner. Both men and women should wear appropriate business attire, although some offices may permit "business casual" attire on certain days.

(b) Conduct and Attitude.

All interviews should be conducted in a courteous and businesslike manner. The following guidelines will ensure that the interview is conducted professionally:

- Maintain control of the interview at all times. "Maintaining control" does not mean being overbearing or abusive; on the contrary, it requires that the officer maintain a professional demeanor at all times. The exact nature of that professional demeanor will sometimes vary, according to the interview techniques being employed (see below). The ability of the officer to maintain control of him/herself is instrumental in maintaining control of the interview.
- Speak clearly, distinctly and not too rapidly, using plain and simple language when questioning an applicant, petitioner or witness. Avoid complex and lengthy questions, and always obtain a responsive answer before proceeding to the next question. Avoid using USCIS or government jargon.
- At all times, maintain due regard for the rights of the person being interviewed.
- Avoid arguments with the person being interviewed, as well as remarks of a personal nature that may be taken as a reflection of a judgment of a personal lifestyle.
- Refrain from making any extraneous comments or asking extraneous questions, as they are irrelevant to the purpose of the interview and detract from the professional demeanor that the officer should maintain. Avoid questions about a person's religious beliefs or practices unless they are relevant to determine the individual's eligibility for a benefit. Do not make any comments that might be taken as a negative reflection upon any other person, race, religion, or country.

- Maintain professional conduct even if the person being interviewed becomes abusive or if derogatory information is developed. If necessary, contact a supervisor. See section 15.4(e) for guidance on Concluding or Terminating an Interview.
- Be fair, courteous, and patient without diminishing a full and complete development of the material facts, whether they are favorable or adverse to the person being interviewed or any other person.
- When questioning persons concerning sexual relations, always avoid questions which can be construed solely as prurient or prying.
- Ensure that your demeanor does not imply or reflect prejudice. Interviews should proceed in a fair and impartial manner so as to avoid complaints regarding the conduct of USCIS officers.

15.4 Interview Procedures.

(a) Basic Interview Procedures and Techniques

Conducting successful interviews is a skill which requires knowledge and experience. Successful approaches will vary widely depending on the interviewer, the interviewee, and subject and purpose of the interview. Certain standards (such as those relating to the rights of the individual and the need for professionalism) remain constant; others change according to the circumstances.

Interview proceedings are not to be adversarial in nature. The purpose of the interview is to obtain the correct information in order to make the correct adjudication of the case, not to prove a particular point or to find a reason to deny the benefit sought. The purpose is to cover (and discover) all the pertinent information, both favorable and unfavorable to the applicant.

The following observations apply to all interviews:

15.5 New York City District Office (“Stokes”) Interviews.

(a) Introduction.

The following explanation of the "Stokes" decision was prepared by the Adjudications Branch of the New York District Office. Although Stokes applies only to the New York District, it is of interest to Adjudicators throughout the Service, as it not only describes the procedures by which that office deals with the requirements imposed by the court, it also shows how beneficial an effective fraud interview program can be. A sample of the call-in letter used in these cases is included in **Appendix 15-1** .

(b) Procedures.

“Stokes” refers to a Federal District Court decision, *Stokes v. INS* , No. 74 Civ. 1022 (S.D.N.Y. Nov. 10, 1976. By the terms of this decision, every I-130 spouse petition filed in the New York District Office in which a question of the bona fides of the marriage is at issue must be adjudicated using the following guidelines:

- a written notice describing the rights of the parties involved must be given to the petitioner,

- a separate attachment of the list of rights must be mailed out with the appointment letter, and

- a list of what documents to submit at the time of the interview must be mailed to the petitioner.

The New York District Office has a separate "Stokes" Unit, which handles suspect **I-130** marriage cases and relating adjustment applications. The unit receives the bulk of its work from the regular adjustment of status unit (75%) with the remainder of cases referred from the Litigation Unit. (In litigation cases, the district director lacks jurisdiction over the I-485, unless the case has been specifically remanded by the immigration court, pursuant to an agreement with the government attorney.) Without such a remand, the Stokes Unit adjudicates only the I-130 petition.

15.6 Sworn Statements.

(a) General.

A very important and often overlooked aspect of the district adjudications officer's job is the ability to take useful sworn statements. Because these statements often result in action at higher levels, it is incumbent on the adjudicator to do the best job possible. The sworn statement becomes part of a permanent, official record; successful prosecution may depend on the evidence gained in the statement.

As with any other report writing responsibility, an adjudicator conducting an interview must learn to focus in on an answering the following questions: when? who? what? where? why? and how? More importantly, the adjudicator must structure the statement in a manner that is logical, using a clear progression of facts and questions and not jumping back and forth. Each relevant fact uncovered in a statement should be explored by further questioning and developed to the extent necessary before changing topics.

The interviewing adjudicator should clearly understand the distinction between interviews and interrogations. An officer conducting an interview will sometimes find that the facts revealed in that interview will lead to the conclusion that a more detailed inquiry is required. This type of inquiry is generally referred to as an interrogation and frequently involves eliciting information a subject wishes to conceal.

An interview is the questioning of a person who is believed to have knowledge that is of official interest to the officer. Although it may occur under oath, it is non-adversarial and informal in nature. Routine interviews are generally conducted for naturalization, adjustment of status, etc. An interview ordinarily does not include questioning which extends much beyond the standard questions contained on the application or petition itself.

An interrogation is the questioning of a person suspected of having committed an offense or of a person who is reluctant to make a full disclosure of information in his possession which is pertinent to the investigation. It is a detailed and formal event, generally employing an organized written record in either narrative or question and answer format. Interrogation is often lengthy, detailed and may become adversarial if the person being questioned wants to conceal information detrimental to his or her own interests.

In both cases, however, the officer must possess basic qualities that will maximize the chances of obtaining the information needed. Questions often deal with topics of great sensitivity to the subject. Techniques for conducting effective interviews and taking proper statements are discussed in Appendix 15-2.

(b) Format.

The ideal format for most interviews and simple statements in most situations is videotape. Videotape records not only the answers, but also the demeanor and actions of the interviewee. Properly done, there can be no doubt as to what the interviewee actually said or did. (Improperly done, it also records answers which are indistinct or unintelligible.) Videotape can be transcribed at a later date for use in removal proceedings, but is also immediately available for confronting the interviewee (and/or the interviewee's spouse) with inconsistencies; it allows the conversation to flow without impediments caused by limitations on the officer's typing speed or other factors; it can be reviewed by supervisors during the course of the interview so that suggestions on alternate tactics or questions may be made; and it enables the officer and his supervisor to more effectively review the officer's interview techniques to improve future interviews. Although audio tape can also be used, it is not nearly as effective as videotape.

Under certain circumstances an officer may deem it appropriate to obtain a detailed written record of the interview. Depending on the particular circumstances of the case, this may take the form of a narrative affidavit or a question and answer statement. There are several reasons that may warrant a written record. When the information elicited during the interview will be used as the basis for a denial of the application or will constitute the basis for further inquiry at the consular office, that information must be recorded in a narrative affidavit or a question-and-answer statement.

If the issues are not controversial or involved, a narrative affidavit on Form I-215W is a practical and effective way of taking a statement. The narrative affidavit form makes it possible to reduce the essence of a statement into a concise and compact form. It requires less time and is less difficult to prepare than a question and answer statement. However, the adjudicator must be satisfied that the affiant understands and reads English. If the alien does not understand and read English, an interpreter must be employed. If the adjudicator is fluent in the alien's language, he or she may interview the alien in that language and note the record accordingly. If a separate interpreter is employed, affix to the affidavit a signed statement from the interpreter that he or she read the affidavit to the affiant in his or her own language and that the affiant, before signing, stated he or she understood the contents of the affidavit. An affidavit should be typed, or written in legible longhand by the adjudicator, and signed by the affiant. If prepared in longhand, where feasible, the affidavit should be reproduced in typewritten form and again signed by the affiant. It is also desirable to have a narrative affidavit witnessed by another officer if adverse material is contained in the affidavit, as duress or undue influence may be claimed later.

The verbatim question and answer statement is preferred where the issues are controversial or involved. It leaves little ground for misinterpretation or claims that important information given to the adjudicator has been omitted or misunderstood. However, care must be taken that immaterial and irrelevant matters are not introduced into the transcript. Generally, question and answer statements are recorded by a stenographer or on sound recording equipment. However, if neither a stenographer nor sound recording equipment is available, the questioning may be recorded in legible longhand. **Form I-263B** is used for the face sheet in question and answer statements.

(c) Content .

Examination and cross-examination, if necessary, should be conducted to develop all known applicable facts. The adjudicator must keep in mind the purpose of the statement and neither engage in a "fishing expedition" nor allow the person being questioned to take the initiative and litter the record with extraneous material. Irrelevant and "off the record" statements should be discouraged. The stenographer or interpreter, if either is employed, should be encouraged to call the adjudicator's attention to any factor which makes it difficult to obtain a complete and clear stenographic record.

The statement should generally be developed in chronological and logical sequence with respect to all pertinent details. This will assure clarity and completeness. Even when a statement is written or dictated by the adjudicator, it is essential to use the peculiar phraseology of the subject. The affiant's exact words should be used. Otherwise, it could be shown that he or she did not understand what was signed, and it could be argued that the statement was not made freely and voluntarily, and that it does not represent a true record of what was said. In controversial matters, background information should be thoroughly covered for positive identification purposes. The background information, by its intimate detail, indicates to a certain degree that the statement was obtained in a free and voluntary manner.

(d) Signatures and Jurat .

The signature, jurat and witnessing of a narrative affidavit statement should be executed using the following format:

I have read the foregoing and verify that it is true and correct to the best of my knowledge and belief, and

that it is a full, true and correct record of my statement before the above-named officer of the U.S. Citizenship and Immigration Services. I have initialed the first page of this affidavit and the correction(s) noted on page(s) .

Signature _____

Subscribed and sworn to before me at
_____ (city)

on . (date)

District Adjudications Officer
U.S. Citizenship and Immigration Services

Witness (if USCIS officer, identify by title) (address of office)

If the question and answer format is used for the statement, Form I-263A may be used for this purpose.

If a statement is transcribed by a stenographer, it should be certified by the stenographer as a true and complete transcript of the shorthand notes or of the recorded interview, as the case may be. The shorthand notes or sound recording should be retained in the file in a property envelope, appropriately labeled, for possible future use, such as in a contested case. Transcripts of statements should, if possible, be prepared immediately after the statement is taken and the signature of the person obtained before he leaves the office.

Statements should be signed in the presence of the officer executing the jurat (normally the officer taking the statement), and a witness. Another officer may sign as a witness. Witnesses should be in a position to testify, if necessary, that the subject:

- reviewed the entire statement with the officer;
- consented to and knew of any changes made and initialed each change,

- appeared to understand the contents of the statement;
- appeared to know what he or she was doing;
- acted of his or her own free will; and that acknowledged the statement to be true and correct.

If an individual is unable to sign his or her name, but indicates approval, he or she may sign by a mark. It is desirable to have two witnesses in such case. The adjudicator or other witness should write the person's given name before the mark the affiant's surname after the mark. The word "his" or "her" should be placed over the mark and the word "mark" below.

In order to avoid claims of alterations or substitutions in a sworn question and answer or narrative statement, each page should be signed or initialed by the affiant. Any change or correction should be initialed by the person making the statement. Deliberate errors may sometimes be introduced into the statement for correction and initialing to indicate that the maker of the statement has read and observed the contents of that particular page.

15.7 The Role and Use of Interpreters in Domestic Field Office Interviews without USCIS-Provided Interpretation

Applicability: Chapter 15.7 applies to all USCIS-conducted interviews requiring interpretation, with the exception of asylum interviews, credible fear screening interviews, reasonable fear screening interviews, interviews to determine eligibility for relief pursuant to provisions of the Nicaraguan Adjustment and Central American Relief Act (NACARA), refugee interviews, interviews conducted in a USCIS overseas office, and interviews for which USCIS provides an interpreter.

(a) Core Qualifications to Serve as an Interpreter

Officers must determine whether a proposed interpreter meets the interpreter qualifications, including whether to grant exceptions for good cause when such are available. An interpreter is "a person who provides an oral translation between speakers who speak different languages."¹ In order to qualify as an interpreter for purposes of an immigration interview conducted in a USCIS domestic field office, an individual must be sufficiently fluent in both English and in the interviewee's language, able to interpret competently between English and the interviewee's language, and able to interpret impartially and without bias. If the officer determines either before or during the interview that an individual cannot meet these standards, the officer must disqualify the individual from being an interpreter.²

Additionally, some individuals are restricted from serving as an interpreter. These include minors under age 18, witnesses, and attorneys and representatives for the interviewee. An exception for good cause may be granted if the proposed interpreter is age 14-17. See Section (d), "Exceptions for Good Cause." A witness in a case also cannot serve as an interpreter unless an exception is made for good cause.³

Individuals under age 14 cannot serve as interpreters. The attorney or accredited representative of the interviewee also cannot serve as an interpreter during the interview. There are no exceptions to these two restrictions.

1. Fluency

The interpreter must demonstrate proficiency in both English and in the interviewee's language to the satisfaction of the officer, meaning that the interpreter is sufficiently fluent in both languages. Fluency is the ability "to speak or write smoothly, easily, or readily without difficulty or great effort."⁴ To be proficient, the interviewer must be able to communicate effectively in both languages about the subject

areas to be covered in the interview. Please note that while fluency is a component of being a competent interpreter, it does not always guarantee such competence.

2. Competency

The interpreter must communicate information accurately in both English and in the interviewee's language. The interpreter must give a full and accurate interpretation of the entire interview.

Competency of the interpreter is not always easy to determine. Competency requires more than self-identification as an interpreter in the relevant language. Some individuals may communicate effectively in a different language when communicating information directly in that language (i.e., fluent), but may not be competent to interpret into and out of English. There are a number of signs that indicate that an individual is not competent to interpret.⁵

With regard to minors, one consideration for determining competency is the interpreter's age. Minors, generally, are not considered to be capable of fully understanding or weighing the consequences of contracts or oaths, particularly those regarding confidentiality, which may undermine the validity of the Declaration that the interviewee and interpreter must sign before the interview. Moreover, minors may not be capable of handling the sensitive content of some interviews, which may adversely affect the accuracy and reliability of their interpretations during interviews. Given these considerations, minors less than 18 years of age will be restricted from serving as interpreters. Minors who are 14 through 17 years of age are restricted from serving as interpreters unless an exception for good cause has been established.⁶ Minors less than 14 years of age are not deemed competent to serve as interpreters during interviews and must be disqualified.⁷ As with any interpreter, a minor who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

Some individual organizations certify interpreters as competent to interpret in a designated language; however, an interpreter may be competent absent such certification, and certification does not always guarantee competency.⁸ USCIS recognizes that not all interviewees are able to secure the services of a professional interpreter. Regardless of certification, all interpreters must demonstrate to the officer that they can interpret competently.

3. Impartial and Unbiased Individual

The interpreter must be impartial and able to interpret without bias. An impartial and unbiased individual is one who does not have a predisposition or preconceived opinion about a matter. A predisposition or

preconceived opinion may prevent the individual from interpreting information accurately, literally and fully or making a reliable interpreter declaration.

Officers must consider potential conflicts of interest between an interviewee and his or her proposed interpreter, as well as any other circumstances that might interfere with the interpreter's ability to provide an accurate, literal, and full interpretation. Interpreters and the interviewees must disclose any relationship, predisposition, or preconceived opinion that could affect the interpreter's objectivity and consequently his or her ability to provide impartial and objective interpretation during the interview. For example, some friends, family members, or persons with financial connections to the interviewee (e.g. business partners) could have either actual conflicts of interest with the interviewee or have a strong personal interest in the interviewee obtaining the immigration benefit at issue such that the proposed interpreter is not able to provide impartial and unbiased interpretation services.⁹ As such, family members will generally be disfavored as interpreters if there is another qualified interpreter available. Upon disclosure, the officer must use his or her discretion in making a determination as to whether the circumstances will interfere with the interpreter's ability to interpret objectively and provide an accurate and truthful interpretation of the information conveyed during the interview. If the officer determines that despite the relationships or other circumstances disclosed, the interpreter can still provide competent, impartial and unbiased interpretation, then the interpreter may normally be accepted.¹⁰

Where the proposed interpreter is a derivative (e.g., spouse or child) of the interviewee and could obtain an immigration benefit if the interviewee's application or petition is granted, the officer should be particularly vigilant in making his or her determination as to whether the derivative may, nevertheless, be able to meet the impartiality and unbiased requirement. The officer should continue such vigilance throughout the interview for any signs that the interpreter is violating the interpreter's Declaration.¹¹ However, the officer must not predetermine that a derivative beneficiary is disqualified from serving as an interpreter, due to a conflict of interest, solely because he or she is a derivative beneficiary.

Interpreters who are witnesses in the case-at-hand constitute a special subset of individuals who are likely to be inherently partial and biased, and, therefore, may be less likely to be able to provide accurate, literal and full interpretation. For this reason, witnesses are restricted from serving as interpreters. However, exceptions may be made at the discretion of the officer if there is good cause. See section (c), Restricted Individuals, and, Section (d), "Exceptions for Good Cause." As with any interpreter, a witness who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

Please note that some family derivatives may be witnesses, but not all derivatives are witnesses. Similarly, witnesses may also be non-derivatives. An exception for good cause is only required if the family derivative is also a witness in the case and the interviewee wishes to have his or her derivative interpret at the interview. However, officers must carefully consider whether the derivative is capable of interpreting impartially and without bias.

Attorneys and representatives who have filed a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative ("G-28"), to represent the applicant, petitioner or beneficiary in connection with the benefit request are inherently partial and biased toward their client's interest. As such, conflicts of interest are likely to arise between the attorney's or representative's duty to his or her client and his or her ability to serve as an impartial and competent interpreter in accordance with the Declaration. Therefore, such individuals are disqualified from serving as interpreters at the interview. The officer cannot make exceptions for good cause.

4. "Declaration of Interpreted USCIS Interview" Form

It is mandatory for both the interpreter and the interviewee to sign the "Declaration of Interpreted USCIS Interview" form ("Declaration"). See attached Form G-1256. There are no exceptions to this requirement. See also Section (d), The Interview, and, Section (e), Disqualifying an Interpreter.

(b) Restricted Individuals

1. In order to ensure the integrity of the interview, bolster interpreter accountability, decrease incidences of fraud, eliminate potential conflicts of interest, and provide consistent application of interpretation policies and procedures, the following individuals are restricted from serving as an interpreter, unless an exception for good cause applies:

- Individuals who are 14 through 17 years of age
- Witnesses

2. The following individuals may not serve as interpreters. There is no exception for good cause:

- Attorneys or accredited representatives for the applicant, petitioner or beneficiary who have properly signed the G-28;
- Individuals under the age of 14.

3. Description of restricted individuals

i. Minors under 18 years of age

Individuals who are under 18 years of age are generally restricted from interpreting.

Officers may allow minors who are 14 through 17 years of age to serve as interpreters if there is good cause.¹² As with any accepted interpreter, minors age 14 through 17 must be fluent, competent, and impartial and unbiased throughout the interview, even if an exception for good cause is allowed. Officers must discuss with their supervisor(s) whether to allow a minor who is 14 through 17 years of age to serve as an interpreter. Supervisory approval should be documented in the A-File. Minors under the age of 14 may not serve as interpreters at interviews.¹³

ii. Witnesses

For purposes of an immigration interview, a witness is anyone who, during the interview, gives a firsthand account of something seen, heard, or experienced, or who, prior to or during the interview of the case-at-hand, provides written testimony in the relevant case.¹⁴ Witnesses are restricted from serving as interpreters, unless the officer determines that there is an exception for good cause. Witnesses may include, but are not limited to persons who:

- Are the petitioners in the case (but are not the "interviewee" *per se*)
- Provide affidavits in connection with the case
- Provide oral testimony at an interview or other immigration proceeding
- Provide letters of support for the case¹⁵

Where there is good cause, the interviewing officer has the discretion to allow the use of an interpreter who is a witness. Officers must discuss with their supervisors whether to allow the use of an interpreter who is a witness even in instances when there is good cause. Supervisory approval should be documented in the A-File.

Please Note: Some, *but not all*, derivative beneficiaries may also be witnesses in the case. If the derivative is a witness, then there must be good cause before he or she can serve as interpreter. If the derivative is not a witness and does not fall within any of the other restricted categories, then he or she may serve as the interpreter without the need to demonstrate good cause. However, he or she must still meet all qualifications to serve as an interpreter, including being fluent, competent, and impartial and unbiased. See Section (a), Core Qualifications to Serve as an Interpreter, 1 - 3.

iii. Representatives

Attorneys, accredited representatives, authorized/requested associates of attorneys or accredited representatives, and law students or law graduates working under the direct supervision of the attorney or accredited representative may not serve in their roles as an attorney, accredited representative, or associated representative for the party to the case while *simultaneously* serving as an interpreter for the interviewee. There is no exception.

If the attorney/representative wishes to serve as an interpreter, he or she must withdraw Form G-28 and cannot serve as the attorney/representative during the interview. Upon withdrawal of the G-28, the officer must determine that the individual can still competently serve as the interpreter without bias or partiality, which is required for all qualified interpreters. See Section (a), 3, Impartial and Unbiased individual. An officer is not required to permit an attorney/representative to serve as an interpreter when the G-28 is withdrawn. Officers must obtain supervisory approval prior to allowing a former G-28 noticed attorney/representative to serve as an interpreter. Further, the use of an individual who was formerly serving as the interviewee's attorney or accredited representative should be documented in the A-File. Upon receipt of supervisory approval, the officer must also ensure that the individual signs the Declaration for Interpreted USCIS Interview, and is informed of and accepts his/her obligations as an interpreter, including but not limited to, the duty to interpret exactly what the officer and the interviewee say verbatim without attempting to paraphrase, summarize, or clarify what is said by those parties. Finally, the individual must also agree not to provide advice to the interviewee during the interview.

Note: Where the applicant, petitioner, or beneficiary's attorney or representative is not serving as the interpreter, the attorney/representative may request that the interviewing officer clarify or repeat a question posed to the interviewee that the attorney/representative believes the interpreter did not interpret correctly or that the interviewee did not understand.

(c) Exceptions for Good Cause

Some "restricted individuals," such as witnesses or persons 14 through 17 years old, may still be used by the interviewee as an interpreter if the officer finds that there is good cause to do so. See Section (b), Restricted Individuals, (3)(i)-(ii). In these instances, the interviewee, or his/her representative, may request an exception for good cause to allow the use of an otherwise restricted interpreter. Alternatively, the officer may find that there is good cause without a specific request. As with any interpreter, a restricted individual who is permitted to serve as an interpreter must demonstrate fluency, competency, and impartiality before and throughout the course of the interview.

The interviewing officer will consider the request based on the totality of the circumstances and may permit the use of an otherwise restricted interpreter at his or her discretion, in consultation with and subject to approval by his or her supervisor. In making this determination, the officer should consider whether the reasons for permitting the use of a restricted interpreter outweigh the reasons why the individual is restricted.

The interviewing officer must annotate the interviewee's request to use an otherwise restricted interpreter and/or his or her decision to grant an exception for good cause and include the supporting documentation that he or she found or that was volunteered by the interviewee or interpreter in the A-File. If there is no supporting documentation applicable or available to support the exception, the officer may inquire about the efforts undertaken to find a qualified interpreter and document the efforts in the A-file, including the inability to find a qualified interpreter.

The table below includes general examples of good cause and the types of records that may support the request. The records listed are examples of what may be found in the file. Documents cannot be requested to be produced by the interviewee or interpreter to request or prove they should receive a good cause exception. The examples do not limit what may be considered good cause, nor does the list include every type of acceptable document or record. The officer will consider all requests for an exception for good cause using a totality of circumstances analysis and on a case-by-case basis. Additionally, the officer may find that there is good cause without a specific request made by the interviewee. ¹⁶

USCIS will not grant requests to use an interpreter less than 14 years of age or to allow attorneys or accredited representatives to act as both representative and interpreter simultaneously during the interview. Exceptions for good cause are not available in these two circumstances.

If a good cause request is denied, the officer should follow the procedure for disqualifying an interpreter described in section (e)(2).

EXAMPLES OF GOOD CAUSE		
Cause	Explanation	Possible Records or Documents that may already be contained in the A-file or volunteered by the interviewee or the interpreter¹⁷
Prejudicial Delay	A delay that may prevent the interviewee from qualifying for a benefit or when the delay may harm an interviewee with a documented, serious medical condition (e.g., interviewee may age out prior to rescheduling an interview; a pregnant interviewee who is due to give birth imminently).	Birth certificate for those aging out; medical documentation of interviewee's due date.
Lives in Rural/Remote/Sparsely Populated Areas	Interviewees who live in rural areas where there are few individuals who speak the interviewee's language	Interviewees may access the U.S. Census Bureau website, www.quickfacts.census.gov , to get information on whether the type of area he or she resides in is a "rural" area;

	may not have access to qualified interpreters in the community. ¹⁸	documentation verifying the population of his or her residence. (Other reliable sources supporting the rural, remote, or sparsely populated nature of the interviewee's residence may also be considered.)
Rare Dialect or Language	Interviewees may only speak a language for which an interpreter is extremely difficult to obtain. ¹⁹	Evidence/Records in the file may include documentation that the interviewee's language is considered rare or the officer may consult a book or website about rare languages or dialects.
Confidential Medical Conditions	Interviewees with certain medical conditions may not want to share sensitive information with an unfamiliar interpreter. ²⁰	I-693, Report of Medical Examination and Vaccination Record ²¹ ; letter from medical doctor or health provider documenting medical condition.
Confidential/Protected Information	VAWA interviewees may not want to disclose sensitive abuse information or personal information with an unfamiliar interpreter.	Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, and supporting documentation
Interviewees with certain physical or mental disabilities including developmental disabilities	Interviewees with certain physical or mental disabilities including developmental disabilities may be more responsive to a familiar interpreter, such as their typical support person. ²²	Statement from medical doctor or social service provider indicating that the interviewee is unable to communicate through an unfamiliar interpreter due to the disability; court ordered legal guardianship or conservator documents.

(d) The Interview

(1) Interpreter's Role and Standards of Conduct

(A) General

In an interview requiring the use of an interpreter, the role of the interpreter is crucial to ensure that the record reflects precisely what was said by the non-English speaking interviewee. Misinterpretations can have a significant impact on the outcome of a case by impeding the interviewing officer's ability to elicit accurate information. It is important for the interviewing officer to explain the roles of all parties present at the interview to help ensure those roles are understood and abided by, and misinterpretations are avoided. As the interviewing officer explains to the interpreter his or her role, the officer should have the interpreter interpret to the interviewee(s) this explanation. This will allow the interviewee to also understand the role of the interpreter.

The interpreter and interviewee must read and complete the Declaration form and sign it in the officer's presence, before beginning the interview. The Declaration form reminds all parties that the interpreter must accurately, literally, and fully translate for both the interviewee and the interviewer. The form also notifies the interviewee that an interpreter may hear confidential information, shared between him or her and the interviewing officer. Please note: Although the interpreter and interviewee may read the Declaration form in the waiting area, the interviewee and interpreter may not sign the Declaration form in the waiting area or any place outside of the presence of an officer. The Declaration must be signed after being placed under oath and in the presence of an officer.

(B) Interpreter Conduct and Confidentiality

An interviewee who brings his or her own interpreter to an immigration interview necessarily consents to that interpreter's exposure to any personal information shared during the interview. The Declaration form reminds the interviewee that the use of an interpreter may expose the interpreter to the confidential information discussed at the time of the interview. It also requires the interpreter to agree to not disclose or share any of the information discussed or learned as a result of serving as the interpreter during the interview.

(C) Consecutive Interpretation

USCIS requires that the interpreter provide consecutive interpretation to ensure that the interpretation is as close to verbatim as possible. In consecutive interpretation, the speaker asks a question or makes a statement and immediately thereafter (or with the occurrence of natural pauses or when a pause is requested by the interviewee or interviewing officer) the interpreter interprets what was said for the other language speaker.

Other Forms of Interpretation (Which are not Permitted)

Other forms of interpretation include simultaneous interpretation and summarization, which raise problems for both the interviewee and the interviewer in fully understanding the information being interpreted. Neither simultaneous interpretation nor summarization is permitted during immigration interviews.

- Simultaneous interpretation occurs when interpretation is done at the same time as the interviewee or interviewer is speaking. This form of interpretation is problematic, and is not permitted, because the interpreter may not hear some words from the interviewee or interviewer over his or her own

voice. This form of interpretation is also problematic in situations where a telephonic interpreter monitor is being utilized. The interpreter monitor needs to hear each party's words to evaluate the quality of interpretation.

- Summarization is a non-literal form of interpretation, in which only a summary of the statements made by each party is interpreted for the other language speaker. Testimony summation is not permitted during immigration interviews because relevant details, which are crucial to make a determination on the case, may be overlooked by the interpreter.

(2) Conducting the Interview

The officer should begin the interview by introducing himself or herself to the interviewee(s) and to the interpreter, as well as, stating, in non-technical terms, the purpose of the interview.

Next, the officer should explain the role of the interpreter. Specifically, the officer should remind the interpreter that he or she is not to impose his or her own thoughts or own interpretation of what is being said to either party. The interpreter must also be informed not to assist the interviewee in giving his or her answers to the officer.

Additionally, the officer should explain consecutive interpretation and instruct the interpreter to interpret consecutively, verbatim, and without adding or omitting any information (i.e., what the officer is saying to the interviewee and what the interviewee is saying to the officer). The officer should also tell the interpreter that if the officer's questions are getting too long, compound, or otherwise difficult for the interpreter to interpret effectively, the interpreter should let the officer know immediately so that the officer can assess whether to rephrase, repeat, or take other steps to facilitate better interpretation, while also maintaining the integrity of the interview.

The officer should advise the interviewee to speak slowly, clearly, and in short sentences. The officer should tell the interviewee that the officer will try to do the same. The officer should emphasize that the interviewee should let the officer know, at any time, if the officer's questions are not clear, getting too long or otherwise cannot be understood by the interviewee. The officer should also tell the interviewee to let the officer know if there is any point in the interview when the interviewee cannot understand the interpreter.

The interpreter must read and translate the Declaration form to the interviewee at the time of the interview, or the interpreter must attest, under oath, that he has already read and translated the Declaration form to the interviewee (e.g., the interpreter may read and translate the Declaration form to the interviewee while in the waiting area). After placing the interviewee and interpreter under oath, the officer must request that the interviewee and interpreter sign the Declaration form. The interviewee and interpreter may not sign the Declaration form in the waiting area or any place outside of the presence of an officer. The Declaration form must be signed after the interviewee is placed under oath and in the presence of an officer. The officer may choose to review the statements in the Declaration to confirm the parties' understanding of the content.

After the interpreter has interpreted the Declaration form to the interviewee, the officer should confirm the interpreter's agreement not to disclose any personal information about the interviewee that the interpreter may learn in the interview, and confirm that the interpreter will accurately, literally, and fully interpret the content of the interview.

This introduction to the interview and review of the Declaration form allows the interviewee to understand the role of the interpreter and become familiar with consecutive interpretation. Additionally, these preliminary steps provide the interviewing officer an opportunity to assess the interpreter's fluency, competency, and impartiality in interpreting for the interviewee(s) and officer.

(3) Communicating Effectively and Facilitating the Interpretation

(A) The Interpreter's Role and Conduct During the Interview

These are general guidelines on the interpreter's role and conduct during the interview:

- The interpreter must interpret verbatim, using the officer's and the interviewee's choice of words, rather than the interpreter's choice of words.
- The interpreter must not adopt the role of interviewer or take on the primary questioning role.
- The interpreter must not provide his or her own opinion, commentary, or answer.²³
- The interpreter must not rephrase the officer's or interviewee's sentences with his or her own choice of words.
- The interpreter must not engage in conversation with the interviewee during the interview. The interpreter should advise the officer if a follow up question or explanation may be needed to clarify the officer's original question. It is the officer's decision, however, whether to do so.
- The interpreter must not try to resolve ambiguities or to paraphrase or summarize an exchange with the interviewee.
- The interpreter must advise the officer if certain terminology cannot be interpreted verbatim and that an interpretation that will accurately convey the meaning of what is being said will be used instead. The officer may also choose to rephrase the question in terms that can be more easily translated, if he or she wishes.

- The interpreter must use the same grammatical voice as the speaker. To illustrate, if the interviewer asks a question in the past tense, the interpreter should also ask the question using the past tense.
- The interpreter must, at all times, try to maintain a neutral reaction, both verbally and non-verbally, to what the interviewee says during the interview.
- The interpreter must not offer his or her opinion of what the interviewee is saying.
- An interpreter may provide an oral translation of a form(s) or document(s) if the interpreter is competent to do so.

(B) The Interviewing Officer's Role and Conduct During the Interview

These are general guidelines on the interviewing officer's role and conduct when conducting an interview with an interpreter. These guidelines will aid the officer in communicating effectively and facilitating the interpretation:

- Address the interviewee directly, not the interpreter, when speaking to the interviewee.
- Avoid conversations with the interpreter. The interpreter must interpret to the interviewee exactly what the officer says. When necessary, remind the interviewee and the interpreter of the interpreter's role and that conversations between the interviewee and the interpreter are not allowed.
- Speak slowly, clearly, and in short sentences. Remember to pause after every one or two questions or sentences to give the interpreter time to communicate your words to the interviewee. Even the best interpreters will likely forget some of an officer's words if the officer speaks too long before allowing for interpretation.
- Ask one specific question at a time. Avoid compound or long questions.
- Ask the interviewee to speak slowly and to break up his or her statements. The officer should explain that this will help the interpretation go smoothly for all parties.

- Use common, uncomplicated words as much as possible, unless the officer's meaning would be distorted. If use of an uncommon, technical or legal term that may not be clear is necessary, the officer must ensure that the interpreter is able to translate the term appropriately.
- Be conscious of speech patterns and geographical dialects that may be unfamiliar or confusing to the interviewee or the interpreter. Always be prepared to offer an alternative word for interpretation should the word or words that you are saying appear to give the interpreter difficulty when interpreting for the interviewee. For example, if you normally refer to the beverage "soda" as "pop" and the interpreter or interviewee does not understand what "pop" is, the officer should offer another word, such as "soda", to clear up any confusion.
- Repeat the question slowly or rephrase if the interpreter seems not to understand the question or requests that it be repeated or rephrased.
- The officer should rephrase or repeat a question if he or she suspects that the interviewee did not understand the question as it was interpreted or the interviewee requests that it be repeated or rephrased.
- If the officer is uncertain about anything that the interviewee says, the officer should repeat back to the interviewee what the officer understood the interviewee to have said. The officer should also stress, again, to the interpreter, to translate the officer's words verbatim to the interviewee and vice versa so that all parties are clear as to what was actually said.

(e) Disqualifying an Interpreter

(1) Exercising Discretion and Disqualifying an Interpreter Prior to the Interview

Prior to the interview, the officer must determine whether an individual qualifies as an interpreter pursuant to Section (a), Core Qualifications to Serve as an Interpreter. The officer must also determine whether an individual is restricted as an interpreter pursuant to Section (b), Restricted individuals. In making a determination as to whether an interpreter should be disqualified, officers must make the determination carefully and support their decisions with solid reasoning and facts. The same is true when an officer decides that an exception for good cause exception should apply, where one is permitted under this guidance. Local field office management must be consulted and notified in those rare instances when an officer and his or her supervisor(s) have determined that a restricted individual does not appear to have grounds for an exception for good cause, but who nevertheless meets the core qualifications in Section (a) and should serve as an interpreter. Please remember that the table of possible grounds for the exception is not an exhaustive list of examples.

(2) Exercising Discretion and Disqualifying an Interpreter During the Interview

During the interview, the officer must continue to consider whether the interpreter remains fluent, competent, and impartial in his or her capacity as an interpreter pursuant to Section (b), Core Qualifications to Serve as an Interpreter.

A list of indicators and examples is provided below to assist officers in determining whether to exercise their discretion to disqualify an interpreter for failure to maintain the core requirements of competency, impartiality, and ability to remain unbiased in providing interpretation during the interview. Note: this list of indicators and examples is not exhaustive.

Examples Where Officers May Exercise Discretion to Resolve Interpreter Issues

The officer may attempt to resolve or correct these scenarios/examples by counseling the parties about their behavior or reminding the parties of their respective role(s). However, if the officer's efforts to resolve or correct are not successful and the officer determines that the interpreter is no longer competent to interpret nor maintaining impartiality, then the officer should exercise his/her discretion to disqualify the interpreter.

- The response to the officer's question does not answer the question or only partially answers the question.
- The officer recognizes words not being interpreted.
- The interpreter uses many more words to interpret the question than the question appears to have, or vice versa. Note: Some questions will require more or fewer words in one language than in another. This phenomenon alone does not always indicate that the interpretation is faulty.
- Lengthy response from the interviewee is interpreted from the interpreter as a very brief response, or vice versa.
- There is back-and-forth dialogue between the interpreter and the interviewee.
- The interviewee provides non-verbal signs that he or she is confused or concerned.

- Interviewee appears to understand some of the interpreter's translation to the officer and indicates, verbally or otherwise, that the interpreter is not conveying the interviewee's response correctly.

Examples Where Officers Should Disqualify an Interpreter

The following are examples of situations where officers should disqualify the interpreter for failure to meet or maintain the core requirements for competency, impartiality and/or ability to give unbiased interpretation. If any of the following circumstances occur, but the officer decides that the problem has been resolved and determines the interpreter should not be disqualified, the officer must first obtain supervisory approval and also document the reasons for his or her decision in the A-file. In these situations, it will be rare that an interpreter will be allowed to continue participating in the interview.

- The interpreter is clearly testifying for the interviewee and refuses to cease and interpret only what the interviewee states.
- The interpreter is obviously coaching the interviewee.
- The interpreter is embellishing or changing answers, or altering the questions and refuses to cease doing so when the officer requests.
- The interpreter and the interviewee clearly appear to be consulting or collaborating on the responses to the officer's questions and refuse to cease at the officer's request.
- The interpreter appears to be inhibiting the interviewee's testimony.
- The officer has good reason to suspect that the interpreter alone, or the interpreter in collusion with the interviewee, is engaging in fraud when providing responses to the officer's questions.²⁴

When the officer determines to disqualify the interpreter in these instances listed above, the officer must consult with his or her supervisor and follow the procedures for disqualification below.

(3) Procedures for Disqualifying an Interpreter

USCIS reserves the right to disqualify an interpreter provided by the interviewee if an officer determines

that the integrity of the examination is compromised by the interpreter's participation. The officer must consult with his or her supervisor prior to disqualifying an interpreter.

At any time before or during the interview the officer may disqualify an interpreter because he or she is unqualified to serve as an interpreter under the standards described herein. ²⁵

If the officer determines that disqualification is necessary, the officer must stop the interview and discuss his or her concerns with his or her supervisor and recommend that the interview be rescheduled per local procedures. With the supervisor's approval, the officer must explain to the applicant or petitioner the general reason(s) for the interpreter disqualification, as well as provide the interviewee with the following options: 1) permit the interviewee to continue with the interview using another qualified interpreter; 2) reschedule the interview per local procedures in order to give the interviewee an opportunity to bring a qualified interpreter; or 3) continue the interview without an interpreter if the interviewee voluntarily desires to do so.

If necessary, and if the disqualified interpreter is generally competent in his or her language interpretation skills, the officer may use the interpreter to help explain the reason(s) for the disqualification and the options available to the interviewee. The officer must properly annotate the A-File with the reason for disqualification (e.g., lack of competency, bias, serving as attorney/representative during the interview) of the interpreter and whether an exception for good cause has been requested and rejected.

The USCIS officer should only permit an interviewee to continue the interview without the assistance of an interpreter if the officer is confident that he or she is able to communicate effectively with the interviewee in English. If the officer has concerns about the interviewee's fluency in English, the officer may ask some open-ended questions with the purpose of assessing the interviewee's ability to communicate in English, such as the following:

- How did you learn English?
- What is the purpose of your interview today?
- Please describe for me some of the things you see in this office.

If the USCIS officer has determined that the interviewee is sufficiently fluent in English that the officer and interviewee will be able to effectively communicate, before proceeding with the interview, the officer should ask the interviewee the following questions and record the questions and answers in the interview notes:

- Do you understand that you may choose to reschedule this interview so that you can bring a qualified interpreter with you instead of proceeding today in English?
- Do you want to go forward with this interview today in English, without the help of an interpreter?

If the interviewee answers the above questions in the affirmative and chooses to continue the interview without the assistance of an interpreter, the officer should proceed with the interview, noting any inability of the interviewee to communicate and understand questions. The officer should proceed to adjudicate or continue the case as appropriate under existing guidance for the benefit, e.g., grant, deny, issue NOID, issue Request for Evidence, etc.

Note that in cases governed by 8 CFR 312.4 (naturalization cases) "Selection of Interpreter," USCIS' obligations to the applicant upon disqualifying an interpreter provided by the applicant differ from the disqualification obligations for interviews conducted pursuant to 8 CFR 245. Specifically, 8 CFR 312.4 states that if USCIS disqualifies an interpreter provided by the applicant for use pursuant to 8 CFR 312.2, USCIS must provide another interpreter for the applicant in a timely manner."²⁶ This obligation to provide an interpreter for the applicant at a cost to USCIS is only applicable to interviews conducted pursuant to 8 CFR 312.4 and does not apply to other interviews.

Footnotes:

¹ See Interpreter. Dictionary.com. Dictionary.com Unabridged. Random House, Inc. <http://dictionary.reference.com/browse/interpreter> (accessed: January 28, 2014).

² See Section (e), "Disqualifying an Interpreter." In those rare instances when evidence is presented after the interview concludes, or a USCIS officer discovers evidence after the interview concludes, which indicates that the interpreter has not adequately met these described standards, the officer should discuss with his or her supervisors the appropriate action to take (e.g., potentially giving notice to the interviewee and rescheduling the interview, or rescinding or revoking a previously approved grant or approval of a benefit, whatever is appropriate based on the disposition of the benefit at the conclusion of the interview). For purposes of an immigration interview, a witness is anyone who, during the interview, gives a firsthand account of something seen, heard, or experienced, or who, prior to or during the interview of the case-at-hand, provides written testimony in the relevant case.

³ For purposes of an immigration interview, a witness is anyone who, during the interview, gives a firsthand account of something seen, heard, or experienced, or who, prior to or during the interview of the case-at-hand, provides written testimony in the relevant case.

⁴ See *fluency*. Dictionary.com. Dictionary.com Unabridged. Random House, Inc. <http://dictionary.reference.com/browse/fluency> (accessed January 28, 2014).

⁵ See Section (e), Disqualifying an Interpreter, for examples.

⁶ See Section (c), Exceptions for Good Cause.

⁷ Immigration laws typically permit the parents or guardians of minors under 14 years of age to act on their behalf. To illustrate, minors under 14 can have their parents or guardians sign immigration benefit forms or appear for naturalization interviews. Additionally, minors under age 14 are not required to submit to fingerprinting.

⁸ The interviewing officer always monitors for indications of interpretation problems between the parties regardless of certification.

⁹ For example, if the proposed interpreter may derive a financial benefit from approval of (or suffer detriment due to denial of) an immigration benefit for the interviewee, the proposed interpreter might not be permitted to interpret due to a potential conflict of interest.

¹⁰ But see discussion below of witnesses in the case where a "good cause" exception is necessary and the prohibition of an interviewee's attorney or representative simultaneously serving as an interpreter during the interview.

¹¹ See Declaration for Interpreted USCIS Interview, Form G-1256.

¹² See Section (c), Exceptions for Good Cause, table.

¹³ If the interpreter is less than 14 years old, the officer must disqualify the interpreter. See also Section (e)(2), Procedures for Disqualifying an Interpreter.

¹⁴ Written testimony is documentation relevant to the case-at-hand (i.e., signatory on the application or petition; providing an affidavit or other recorded statement related to the case-at-hand). Oral testimony must be collected, or taken during the interview (i.e., giving a firsthand account of something seen, heard, or experienced).

¹⁵ The following are examples of situations where certain relatives are and are not witnesses in the case: Example #1: A U.S. citizen petitioner cannot interpret for his or her spouse, absent an exception for good cause, because he or she will be providing oral testimony during the interview and is a signatory on the I-130 Petition. Example #2: The interviewee's cousin, age 19, wants to serve as an interpreter and the cousin is not a signatory on the application or petition, has not provided an affidavit in the case-at-hand, and is not giving oral testimony during the interview. The cousin may serve as an interpreter, provided he/she meets the core qualifications to serve as an interpreter, because the cousin is not defined as a witness for purposes of witnesses being excluded as interpreters. As noted in the earlier discussion of impartial and unbiased individuals, the officer will always need to determine whether the cousin can be sufficiently objective in his or her interpretation, despite the familial relationship. Example #3: The interviewee's neighbor wishes to serve as the interviewee's interpreter during an immigration interview wherein the interviewee is seeking permanent resident status based on marriage to a U.S. citizen. The neighbor does not give oral testimony during the interview, but the neighbor previously provided an affidavit attesting to the bona fides of the

interviewee's marriage to her U.S. citizen husband. Because the neighbor fits the definition of a witness, the neighbor is disqualified from serving as an interpreter unless a good cause exception applies.

¹⁶ The officer must notate his or her decision for the exception.

¹⁷ This column lists examples of documents that may already exist in the A-file or from public sources. Documents are not to be requested or required from the interviewee or interpreter.

¹⁸ Interviewees who live in a geographic area designated by the U.S. Census Bureau as "rural," which is defined as areas with less than 2,500 residents. See www.quickfacts.census.gov, which gives the most recent estimate of population/rural determinations based on state, county, or city. Note, however, that the fact that an area is rural does not necessarily establish in all cases that there are few individuals there who speak the interviewee's language, as some of these areas are home to significant concentrated populations of certain immigrant groups.

¹⁹ For example, certain interviewees may communicate only (or best) in Chamicuro; Mam; Ixil; or Alsatian. However, officers should be attuned to situations where an interviewee may be able to communicate fluently in a second language for which a qualified interpreter may be more readily available. For example, Mayans are often fluent in Spanish, and Alsatians can often speak German, French or both. Officers may consider whether the interviewee is fluent in a second language and could obtain a qualified interpreter in that language. However, if the interviewee credibly indicates that he or she would have difficulty participating fully in the interview if he or she had to use the second language, officers should not encourage the interviewee to do so.

²⁰ For example, HIV/AIDS, sexually transmitted diseases.

²¹ If this form is not already in the A-File, it should not be specifically requested; rather, this form is listed as an example of the type of evidence that could be produced to support a good cause exception based on a "Confidential Medical Condition."

²² For example, Alzheimer's disease or Down syndrome.

²³ If an interviewee asks the interpreter a question, the interpreter must immediately translate that question for the officer's response rather than answering the question him/herself.

²⁴ If the officer has good, supported reason(s) to suspect the interpreter is personally engaging in fraud, the interpreter must be disqualified absent strongly compelling reasons, approved by the officer's supervisor, for non-disqualification. If the interview continues with the same interpreter, the officer and supervisor must ensure that the interpreter's negative behavior ceases or the officer must terminate the interview. Please note: If the interpreter is interpreting exactly what the interviewee states, but the officer has good reason to suspect the interviewee's testimony is fraudulent, that does not necessarily mean the interpreter has "engaged in" fraud him/herself. The interpreter could merely be providing fluent and competent, verbatim interpretation. The officer must determine whether the interpreter is independently providing fraudulent information or is colluding with the interviewee to provide fraudulent testimony before the officer can find that the interpreter is "engaging in" fraud. If the interviewee alone is providing the fraudulent testimony (albeit through the interpretation) or is colluding with the interpreter in providing the fraudulent testimony, then the officer should take the same appropriate steps the officer would take in any other interview where the interviewee gives fraudulent answers.

²⁵ See fn. 7 *infra* regarding discovery of post-interview evidence that the interpreter has not met described standards.

²⁶ 8 CFR 312.2 addresses the requirements and applicable exceptions regarding the mandatory knowledge of history and government of the United States as part of the educational requirements for naturalization under 8 CFR 312.4.

15.8 Role of Attorney or Representative in the Interview Process.

Frequently an attorney will be present to represent a subject. The following rules should be followed when the person being interviewed is accompanied by legal counsel:

- Interviewing officers should verify that a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) is part of the record.
- The attorney's role at an interview is to ensure that the subject's legal rights are protected. An attorney may advise his client(s) on points of law but he/she cannot respond to questions the interviewing officer has directed to the subject. The attorney's role is even more restricted with regard to a sworn statement taken from an applicant for admission in conjunction with removal proceedings to determine admissibility, where the alien has not yet legally entered the United States.
- Officers should not engage in personal conversations with attorneys during the course of an interview.

15.9 Videotaping Interviews.

(a) Quality Assurance Initiative.

Videotape equipment was introduced into the district adjudications environment as part of USCIS's district office quality review program. The program is designed to ensure a systematic review of all decisions in district offices, and to guarantee quality improvements, based on the results of the review. This is a system of continuous improvement, and is consistent with USCIS's quality management goals. Before the initiation of the videotape program, Adjudications had no USCIS -wide quality review system with respect to decisions rendered on casework involving the interview process. Generally, offices reviewed denials, but not approvals or cases returned to applicants for further documentation. This lack of a formal review system created the potential for incorrect and inconsistent decisions and for internal and external fraud.

The use of videotape to capture interviews provides an opportunity for managers to critique their officers. Conversely, the presence of a video record serves to protect adjudications officer from allegations of misconduct by aliens and their attorneys.

(b) Anti-Fraud Tool.

In addition to being a quality improvement tool, the videotape program has played an important role in combating immigration fraud. Videotaped interviews are regularly used as evidence in fraud cases. Perhaps even more importantly, the mere presence of the camera is an excellent fraud deterrent.

See also **Chapter 11.2** of this manual for a discussion of retention requirements for videotaped evidence.

15.10 NSEERS Interviews.

[Removed]

Appendix 15-1, Call-in Notice Attachments Utilized by NYC District Office in Conjunction with Stokes Cases, has been superseded by USCIS Policy Manual, Volume 1: General Policies and Procedures as of May 15, 2020.

Appendix 15-2, Non-Adversarial Interview Techniques, has been superseded by USCIS Policy Manual, Volume 1: General Policies and Procedures as of May 15, 2020.

Appendix 15-3 SRMT Search Request Form, has been superseded by USCIS Policy Manual, Volume 1: General Policies and Procedures as of May 10, 2019.

Appendix 15-4 Processing N-400s Filed under INA 328 and 329 When Applicant Fails to Respond to a Request for Evidence or for Appearance has been superseded by USCIS Policy Manual, Volume 12: Citizenship and Naturalization as of January 22, 2013.