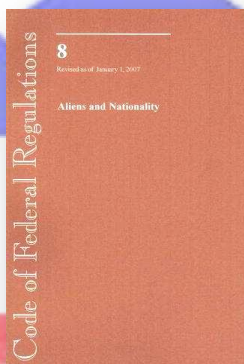


The U.S. Constitution gives Congress and the federal government exclusive power over immigration, naturalization, and deportation.¹ Congress has fully occupied the field of immigration regulation through enactment and implementation of the Immigration and Nationality Act (INA).²

¹ *DeCanas*, 424 U.S. at 354, 356; ² *LULAC*, 908 F. Supp. 755, 775–76, citing *Gonzales v. City of Peoria*, 722 F.2d 468 (9th Cir. 1983).

Immigration law provides that aliens in immigration proceedings have the privilege of being represented, at no expense to the government, by counsel selected by the alien and authorized to practice[†] (INA § 292, 8 United States Code (U.S.C.) § 1362).



§ 1292 of 8 CFR, *Aliens and Nationality*, specifies who may represent an alien in immigration proceedings and the criteria they must meet:

Recognized Organizations — Aliens may obtain representation from a non-profit, religious, charitable, social service, or similar organization that is established in the United States and is officially recognized by the Board of Immigration Appeals (BIA) in the Executive Office for Immigration Review (EOIR). Status: *FORM EOIR-31, Request for Recognition, pending adjudication.*

Accredited Representatives (Full/Partial) — Aliens may be represented by an accredited representative who is affiliated with a recognized organization by the BIA as specified.

*“Candidates with **Good Moral Character** can participate in a fee-based unpaid internship exempt from the Fair Labor Standards Act (FLSA) to obtain the requisite experience and knowledge of immigration and naturalization law and procedure for possible nomination. Full Accreditation allows the representative to represent the alien before Department of Homeland Security (DHS), the immigration courts, and the BIA. Partial Accreditation allows the representative to represent the alien only before DHS.”*



[†] Federal regulations at 8 CFR §§ 1.1(i) and 1001.1(i) define the term “practice” as: The act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service, or any officer of the Service, or the Board.

NOTE 1: WHOmentors.com, Inc., an E-Verify H-1B cap-exempt employer, is a national nonprofit 501(c)(3) tax-exempt 509(a)(2) research corporation that is primarily engaged in interdisciplinary scientific applied research to gain knowledge or understanding to determine the means by which a specific, recognized need may be met.

NOTE 2: Only *bona fide* consultants and independent contractors are nominated. Once officially designated as Accredited Representatives, they may charge or accept a nominal fee set by the organization through which they gained their accreditation. F-1 Optional Practical Training (OPT) Students may be eligible for H-1B.

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