

Executive Office for Immigration Review Professional Conduct for Practitioners—Rules and Procedures, and Representation and Appearances (RIN 1125–AA83)

Frequently Asked Questions August 2023 (Updated)

This document is intended only to be a resource to assist the public in understanding certain changes to the Federal Regulations regarding appearances before the Department of Justice’s Executive Office for Immigration Review (EOIR). It does not constitute legal advice or convey any benefit. It is not intended to be comprehensive and thus, EOIR encourages the public to review the applicable regulations for additional information.

Overview

Q: What does this rule do?

A: The rule expands the circumstances in which practitioners may assist pro se individuals in proceedings before an immigration court and the Board of Immigration Appeals (BIA). Practitioners will now be able to make appearances and provide legal services in two ways. First, as before, practitioners may enter an appearance to be the “practitioner of record” for the duration of a specified proceeding before an immigration court or the BIA through the filing of a Form EOIR-28 or EOIR-27. 8 C.F.R. §§ 1003.17(a), 1003.38(g)(1). Second, as now permitted by these regulatory changes, practitioners will enter a limited appearance when they provide document assistance to pro se individuals in proceedings before an immigration court or the BIA, and the practitioner has not already entered their appearance or is not seeking to enter their appearance to become the practitioner of record. 8 C.F.R. §§ 1003.17(b), 1003.38(g)(2). The limited appearance is made through the filing of a Form EOIR-60 (Notice of Entry of Limited Appearance for Document Assistance Before the Board of Immigration Appeals) or Form EOIR 61 (Notice of Entry of Limited Appearance for Document Assistance Before the Immigration Court) together with the prepared documents. More details about both types of appearances are discussed below.

Q: Where can a practitioner find the Form EOIR-60 or Form EOIR-61?

A: EOIR forms are available on the EOIR Forms webpage or at any immigration court and the BIA Clerk’s Office in Falls Church, Virginia.

Definitions

Q: What is “document assistance”?

A: “Document assistance” is the drafting, completing, or filling in of blank spaces of any motion, brief, form, or other document or set of documents intended to be filed with the immigration

court or BIA. 8 C.F.R. §§ 1003.17(b), 1003.38(g)(2). Document assistance includes assistance that may be considered “practice” as defined at 8 C.F.R § 1001.1(i) or “preparation” as defined at 8 C.F.R. § 1001.1(k). Regardless of how the assistance is construed, any document assistance by a practitioner for a pro se respondent is subject to the requirements for limited appearances for document assistance as discussed below.

Q: Who is considered a “practitioner”?

A: Individuals authorized to provide representation— i.e., attorneys, law students, law graduates, reputable individuals, accredited representatives, and accredited officials—are known as “practitioners.” 8 C.F.R §§ 1003.101(b), 1001.1(ff); see also 8 C.F.R § 1292.1.

Q: Who is considered a “practitioner of record”?

A: A “practitioner of record” is a practitioner who enters an appearance for a specified proceeding using Form EOIR-27 to appear before the BIA or Form EOIR-28 to appear before the immigration court. 8 C.F.R. §§ 1003.17(a), 1003.38(g), 1292.4(a). Formerly, a practitioner of record may have been referred to as the “representative of record” or “counsel of record.”

The practitioner of record is authorized and required to appear before the BIA or the immigration court on behalf of the respondent, file all documents on behalf of the respondent, and accept service of process of all documents filed in the designated proceedings. 8 C.F.R. §§ 1003.17(a)(2), 1003.38(g)(1)(ii).

Q: What is a “prepared document”?

A: For purposes of these FAQs, EOIR is referring to the document or set of documents with which a practitioner assists—and because of which a practitioner completes a Form EOIR-60 or Form EOIR-61—as a “prepared document(s).”

Q: What is a limited appearance for document assistance?

A: A limited appearance for document assistance is an appearance that practitioners must enter when they provide document assistance to pro se respondents with documents intended to be filed in proceedings before the BIA or the immigration court, and the practitioner is not already or is not seeking to become the practitioner of record as discussed above. A limited appearance for document assistance is made by filing the completed Form EOIR-60 for filings before the BIA or Form EOIR-61 for filings before the immigration court, together with the prepared documents. 8 C.F.R. §§ 1003.38(g)(2), 1003.17(b). In addition to filing the Form EOIR-60 and Form EOIR-61, practitioners must identify themselves by name, accompanied by their signature, on any prepared document filed or intended to be filed with the immigration court or BIA. 8 C.F.R. §§ 1003.38(g)(3), 1003.17(c).

Who is affected by this rule?

Q: Who can enter a limited appearance under this rule?

A: The rule applies to practitioners who are seeking to enter a limited appearance before the Executive Office for Immigration Review (EOIR).

Q: Can any practitioner enter a limited appearance via Form EOIR-60 or Form EOIR-61? Is a certain type of immigration law background, experience, or training required to provide document assistance under this rule?

A: Any individual who meets the definition of “practitioner” as described above may enter an appearance via Form EOIR-60 or Form EOIR-61. See 8 C.F.R. §§ 1001.1(f) (definition of “attorney”), 1001.1(j) (definition of “representative”), 1001.1(ff) (definition of “practitioner”), 1292.1 (stating and defining individuals authorized to provide representation before EOIR). While there is no special type of training or experience required by the rule, practitioners are subject to EOIR’s Rules of Professional Conduct, including competence. See e.g., 8 C.F.R. § 1003.102(o)(competent representation “requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.”)

Q: Are EOIR contractors and sub-contractors required to enter a limited appearance for document assistance on Form EOIR-60 or Form EOIR-61 when the contractor or sub-contractor provides document assistance?

A: Any practitioner, including contractors and sub-contractors for EOIR, must complete a Form EOIR-60 or Form EOIR-61 if they provide document assistance when the prepared documents are to be filed with the BIA or immigration court and the practitioner is not serving as the practitioner of record. When filed with the BIA or immigration court, the prepared documents must be accompanied by that Form EOIR-60 or Form EOIR-61. Failure to have a signed and completed Form EOIR-60 or Form EOIR-61 when required may subject the practitioner to discipline. 8 C.F.R. § 1003.102(t).

Q: Is a practitioner who translates and completes a form for a pro se respondent without exercising professional judgment or providing legal advice required to file a Form EOIR-60 or EOIR-61 (e.g., completing a Form EOIR-33)?

A: Yes. A practitioner who provides document assistance pertaining to a document or set of documents intended to be filed with the BIA or immigration court, regardless of the type of document or the work involved, must complete a Form EOIR-60 or Form EOIR-61. When filed with the BIA or immigration court, the prepared documents must be accompanied by a Form EOIR-60 or Form EOIR-61.

As noted above, practitioners who do not intend to appear as practitioners of record, and who provide any work to a pro se respondent related to a document that is intended to be filed with the BIA or immigration court must complete a Form EOIR-60 or Form EOIR-61 to be submitted

with the prepared documents when filed. Failure to have completed and signed a Form EOIR-60 or Form EOIR-61 when required may subject the practitioner to discipline. 8 C.F.R. § 1003.102(t).

Q: If a practitioner volunteers to assist pro se noncitizens respondents by simply transferring information into a written application, is the practitioner required to file a Form EOIR-60 or EOIR-61?

A: Yes. See above answer.

Q: Is a Form EOIR-60 or EOIR-61 required if a practitioner translates a form for a pro se respondent, but does not assist in completing any information on the form?

A: No. If a practitioner is merely reading a form aloud to a pro se respondent, in English or in the respondent's primary language, submission of a Form EOIR-60 or Form EOIR-61 is not required.

Q: If a practitioner provides document assistance to a noncitizen for submission to DHS United States Citizenship and Immigration Services (e.g., credible fear, visa petition, or affirmative asylum application), is the practitioner subsequently required to file a Form EOIR-60 or Form EOIR-61 if the pro se noncitizen is later placed in EOIR proceedings and the document, such as a petition or application, is before the BIA or immigration court for further adjudication?

A: No. Document assistance provided to a pro se respondent for documents that are not intended to be filed with EOIR are not subject to this rule. "Document assistance," as used in these regulations, is the drafting, completing, or filling in of blank spaces of any motion, brief, form, or other document or set of documents intended to be filed with the immigration court or BIA. See 8 C.F.R §§ 1003.17(b), 1003.38(g)(2) (emphasis added).

If the practitioner provides additional document assistance to the pro se respondent after the respondent is placed in proceedings before the BIA or immigration court, then the practitioner will be required to complete a Form EOIR-60 or Form EOIR-61, and that form must accompany the prepared documents at the time that they are filed with the BIA or immigration court.

Q: Is a "Friend of the Court" required to complete a Form EOIR-60 or Form EOIR-61 to appear in court in such capacity?

A: No. This rule does not affect the ability of a person to appear as a "Friend of the Court," or, amicus curiae, in immigration proceedings because amicus curiae appear as an aid to the court and not as a practitioner. See EOIR Director's Memorandum 22-06, Friend of the Court, May 5, 2022.

Q: If a practitioner appears in immigration court as a "Friend of the Court," and subsequently provides document assistance to the pro se respondent in the same matter, is a Form EOIR-60 or EOIR-61 required?

A: Yes. Any time a practitioner (who is not practitioner of record) engages in document assistance on behalf of a pro se respondent, a Form EOIR-60 or EOIR-61 is required.

Q: If a paralegal who is not a practitioner helps a pro se respondent complete the blank spaces on a form, do they need to complete a Form EOIR-60 or Form EOIR-61?

A: No. The rule regarding limited appearances for document assistance only applies to practitioners. Non-practitioners, such as paralegals, continue to be permitted to assist respondents with the limited activity of document preparation, which consists solely of filling in blank spaces on printed forms with information provided by the respondent that are to be filed with EOIR, provided that such acts do not include the exercise of professional judgment to provide legal advice or legal services. 8 C.F.R. § 1001.1(k). Non-practitioners engaging in document preparation should identify themselves on all forms or other documents as the document preparer as required.

Q: Is a non-practitioner who translates and completes a form for a pro se respondent without exercising professional judgment or providing legal advice required to file a Form EOIR-60 or EOIR-61 (e.g., but not limited to, completing a Form EOIR-33)?

A: Individuals who are not practitioners are not subject to the rule regarding limited appearances for documents assistance. Non-practitioners, such as paralegals, continue to be permitted to assist noncitizens respondents with the limited activity of “preparation” of documents, which consists solely of filling in blank spaces on printed forms with information provided by the applicant or petitioner that are to be filed with or submitted to the BIA or immigration court, provided that such acts do not include the exercise of professional judgment to provide legal advice or legal services. 8 C.F.R. § 1001.1(k). Non-practitioners engaging in “preparation” should identify themselves on all forms or other documents that have a “preparer section” or otherwise require the preparer to identify themselves.

Q: Is a Form EOIR-60 or EOIR-61 required if a non-practitioner, such as a legal assistant, translates a form for a pro se respondent, but does not assist in preparing the forms?

A: No. If a non-practitioner is merely reading a form aloud to a pro se respondent, in English or in the respondent’s primary language, an entry of appearance is not required. Non-practitioners are not bound by the appearance rules.

Q: If a legal assistant, who is not a practitioner, helps a pro se respondent complete a form (for example, Form I-589) and a practitioner reviews it, is the practitioner required to complete a Form EOIR-60 or Form EOIR-61?

A: Yes. The practitioner’s review of work completed on a document is “document assistance.” Thus, the practitioner must complete a Form EOIR-60 or EOIR-61. Additionally, if the form has a preparer section, the practitioner should complete and sign the preparer section.

What are the requirements and allowances of this new rule?

Q: What kinds of documents may a practitioner assist a pro se respondent with under this rule?

A: A practitioner may assist a pro se respondent with any motion, brief, form, or other document or set of documents intended to be filed with the immigration court or BIA. 8 C.F.R. §§ 1003.17(b), 1003.38(g)(2). This includes motions to reopen and reconsider before the immigration court pursuant to 8 C.F.R. § 1003.23(b)(1)(ii). EOIR did not update 8 C.F.R. § 1003.23(b)(1)(ii) regarding motions to reopen or reconsider before the immigration court. That regulation mentions filing a Form EOIR-28 with the motion and does not mention completing a Form EOIR-61 if a practitioner only provides document assistance to a pro se respondent. However, despite the language of 8 C.F.R. § 1003.23(b)(1)(ii), a practitioner may provide document assistance to a pro se respondent with motions to reopen or reconsider before the immigration court and must disclose such assistance on a Form EOIR-61 that is filed together with the prepared documents. 8 C.F.R. § 1003.17(b).

Practitioners may provide document assistance to pro se respondents with motions to reopen or reconsider before the BIA and must disclose such assistance on a Form EOIR-60 that is filed together with the prepared documents. 8 C.F.R. § 1003.2(g)(2). Before the BIA, a Form EOIR-60 is only permitted with respect to documents related to cases that originated in the immigration court. The rule does not apply to motions related to or appeals of Department of Homeland Security (DHS) Officer decisions (e.g., visa petitions, INA § 212(d)(3)(A)(ii) waiver; fines, and DD bonds) and thus, does not permit practitioners to file a Form EOIR-60 for such types of matters. Appearances in those matters must be made on the Form EOIR-27.

Q: If a practitioner enters a limited appearance on Form EOIR-60 or Form EOIR-61, does the practitioner have an obligation to appear before the BIA or in court on behalf of the pro se respondent who received document assistance from the practitioner?

A: No. A limited appearance for document assistance entered via a Form EOIR-60 or Form EOIR-61 does not impose any continuing case-related obligations to the pro se respondent, the immigration court, or the BIA on the part of the practitioner. 8 C.F.R. §§ 1003.17(b)(2), 1003.38(g)(2)(ii). Practitioners who enter a limited appearance do not become the practitioner of record and, as such, do not have the authorization, obligation, or responsibility to appear on behalf of the pro se respondent, to otherwise represent the pro se respondent in person before the immigration court or the BIA, or to move to substitute or withdraw from the proceeding.

Q: If a practitioner enters a limited appearance on Form EOIR-60 or Form EOIR-61, does the practitioner have any ongoing responsibility for the document with which they assisted or to the respondent once the assistance is completed?

A: No, see the answer above. Note, however, that a practitioner's assistance with a document and/or provision of legal advice may be subject to EOIR's Rules of Professional Conduct and the

rules of the practitioner’s licensing authority. See 8 C.F.R. § 1003.101 et seq. (EOIR rules and procedures regarding professional misconduct by practitioners).

Q: If a practitioner enters an appearance via Form EOIR-60 or Form EOIR-61, is the respondent considered “represented” before EOIR?

A: No. A pro se respondent remains pro se even if a practitioner provided them with document assistance and a Form EOIR-60 or Form EOIR-61, together with the prepared documents, was filed in proceedings before the BIA or the immigration court. 8 C.F.R. §§ 1003.38(g)(2)(ii), 1003.17(b)(2). A respondent is considered represented in the proceeding in which a practitioner has filed a Form EOIR-27 or Form EOIR-28 and become the practitioner of record. 8 C.F.R. §§ 1003.17(a)(2), 1003.38(g)(1)(ii). The practitioner of record remains obligated to perform the above functions unless and until the BIA or an immigration judge, as applicable, grants withdrawal or substitution of counsel. 8 C.F.R. §§ 1003.17(a)(3), 1003.38(g)(1)(iii).

Q: Can a practitioner provide legal advice in a consultation with a respondent who is a potential client without entering an appearance?

A: Yes. An appearance is only required if a practitioner seeks to perform the functions of and becomes become the practitioner of record or has provided document assistance to a pro se respondent in proceedings before the BIA or immigration court, and the practitioner has not already, or is not seeking to become, the practitioner of record. A consultation or the provision of legal advice, if unrelated to any document assistance, does not require a practitioner to enter an appearance before the BIA or immigration court. Note that a practitioner’s consultation or provision of legal advice is subject to EOIR’s Rules of Professional Conduct or the rules of the practitioner’s licensing authority. See 8 C.F.R. § 1003.101 et seq. (EOIR rules and procedures regarding professional misconduct by practitioners).

Q: May a practitioner provide legal advice at a free legal clinic, know your rights presentation, or something similar without entering an appearance?

A: Yes. When an interaction is limited to a consultation or presentation, no entry of limited appearance is necessary. When a practitioner provides document assistance, however, such entry of a limited appearance via a Form EOIR-60 or Form EOIR-61 is required.

Q: Does this rule change the requirements for when a practitioner is required to enter an appearance via Form EOIR-27 or Form EOIR-28?

A: No. As before, and as discussed above, a practitioner is required to enter an appearance via a Form EOIR-27 or Form EOIR-28 when they seek to perform the functions of and to become the practitioner of record. The rule did not alter the purposes of the Form EOIR-27 or Form EOIR-28, or the circumstances in which a practitioner would be required to use the forms.

Reminder: In immigration court, a practitioner may enter their appearance to be the practitioner of record via a Form EOIR-28 for all proceedings, custody and bond proceedings only, or all proceedings other than custody and bond proceedings. 8 C.F.R. § 1003.17(a).

Q: Can a practitioner make an appearance on a Form EOIR-60 and a Form EOIR-27 or Form EOIR-61 and a Form EOIR-28 at the same time for the same respondent?

A: No. A practitioner cannot make an appearance on a Form EOIR-60 and a Form EOIR-27 or a Form EOIR-61 and a Form EOIR-28 at the same time for the same respondent. A practitioner may only choose one appearance type at a time. However, a practitioner may change from one type of an appearance to another. For example, if a practitioner provides document assistance to a pro se respondent and the prepared documents and the Form EOIR-60 or Form EOIR-61 are filed with the immigration court or BIA, that practitioner may later enter an appearance on a Form EOIR-27 or Form EOIR-28 to become the practitioner of record for that same respondent. Conversely, if a practitioner has entered an appearance on a Form EOIR-27 or Form EOIR-28 and has become the practitioner of record for a particular respondent, that practitioner must be granted permission to withdraw from their appearance as the practitioner of record from an immigration judge or the BIA before they may make a limited appearance for document assistance on a Form EOIR-60 or Form EOIR-61 for that same, now pro se, respondent. See 8 C.F.R. §§ 1003.17(a)(3), 1003.38(g)(1)(iii).

Q: If I have entered a limited appearance via Form EOIR-60 or Form EOIR-61 for a pro se respondent for one document or set of documents, do I need to enter another Form EOIR-60 or Form EOIR-61 for the same pro se respondent if I assist with a different document or set of documents after that initial limited appearance?

A: Yes. After an initial filing of a document or set of documents with a Form EOIR-60 or Form EOIR-61 for a pro se respondent, any subsequent filing of a prepared document or set of documents for the same pro se respondent must be accompanied by a new Form EOIR-60 or Form EOIR-61. 8 C.F.R. §§ 1003.17(b)(1), 1003.38(g)(2)(i). In other words, practitioners must complete a Form EOIR-60 or Form EOIR-61 each and every time they provide document assistance to a pro se respondent.

Q: How many times may a practitioner enter a limited appearance via Form EOIR-60 or Form EOIR-61 for the same pro se respondent?

A: There is no limit on the number of times a practitioner may enter a limited appearance to provide document assistance to a pro se respondent.

Q: Does a practitioner have to complete and sign the preparer section on a form or document to disclose their assistance with that form or document if they have completed a Form EOIR-60 or Form EOIR-61?

A: Yes. A practitioner providing document assistance is required to complete the preparer section on any form or document that has such a section. 8 C.F.R. §§ 1003.17(c), 1003.38(g)(3). Relatedly, if a practitioner has completed and signed the preparer section on a form or document because they provided assistance with such document, they must also disclose their

document assistance for any document intended to be filed with the BIA or immigration court by completing and signing a Form EOIR-60 or Form EOIR-61.

Q: Does a practitioner have to identify themselves by name and signature on prepared documents in addition to completing a Form EOIR-60 or Form EOIR-61?

A: Yes. Practitioners must identify themselves by name and signature on any motions, briefs, or other documents intended to be filed with the BIA or immigration court in which they provide document assistance, even though they have also completed and signed a Form EOIR-60 or Form EOIR-61 that also includes their identifying information. 8 C.F.R. §§ 1003.38(g)(3), 1003.17(c).

Q: Is there a specific format for a practitioner to use to identify themselves and provide their signature on a document for which there is no preparer section, such as a motion or brief?

A: No, there is no specific format contemplated by the rule. The requirement is simply that “the practitioner must identify themselves by name, accompanied by their signature, on any document filed or intended to be filed with” EOIR. 8 C.F.R. §§ 1003.17(c), 1003.38(g)(3).

How do practitioners comply with the new requirements?

Q: How must the Form EOIR-60 or Form EOIR-61 be filed?

A: The Form EOIR-60 or Form EOIR-61 must be filed in conjunction with the prepared document or set of documents. 8 C.F.R. §§ 1003.17(b)(1), 1003.38(g)(2)(i).

Q: Can the Form EOIR-60 or Form EOIR-61 be filed electronically via ECAS? (The response is updated.)

A: Forms EOIR-60 and EOIR-61 are for respondents who do not have a practitioner of record at the time they receive assistance in preparing documents. Currently, unrepresented respondents’ cases are not eligible for eFiling. As a result, the Form EOIR-60 or the Form EOIR-61, along with the prepared documents, must be filed in person at a filing window or by mail. Filers must also remember to serve DHS with copies of the Form EOIR-60 or Form EOIR-61, and the prepared documents.

Q: How does a practitioner file Form EOIR-60 or Form EOIR-61 in cases with an electronic record of proceedings (eROP) that only permit electronic filing? (New Q)

A: Electronic filing (eFiling) remains available to practitioners of record for both respondents and DHS for all cases with an eROP. Currently, unrepresented respondents’ cases are not eligible for eFiling. Forms EOIR-60 and EOIR-61 are for respondents who do not have a practitioner of record at the time they receive assistance in preparing documents. Currently, unrepresented respondents’ cases are not eligible for eFiling. As a result, the Form EOIR-60 or the Form EOIR-61, along with the prepared documents, must be filed in person at a filing

window or by mail. Filers must also remember to serve DHS with copies of the Form EOIR-60 or Form EOIR-61, and the prepared documents.

Q: Does the Form EOIR-60 and EOIR-61 permit a digital signature?

A: Yes. A digital signature is permitted as indicated by 8 C.F.R. § 1003.31(j).

Q: How should a practitioner fill out the “Description” box on the Form EOIR-60 and Form EOIR-61? (New Q)

A: In the “Description” box, a practitioner should describe and/or name which prepared document or set of documents are being submitted with the form. Any additional information that will aid in describing the prepared documents being submitted may be provided on the reverse side of the form.

Q: If I am a pro bono practitioner and have never appeared before EOIR, do I need an EOIR ID before I can enter an appearance on a Form EOIR-60 or Form EOIR-61? (New Q)

A: A practitioner who is an attorney or fully accredited representative must have an EOIR ID to enter any type of appearance, including a limited appearance through Form EOIR-60 or Form EOIR-61. Registration with EOIR as an attorney or fully accredited representative can be done in person or virtually. [EOIR’s website includes information about this process.](#)

Q: If a pro bono attorney who is volunteering with a legal clinic assists a pro se noncitizen with an asylum application, must the pro bono attorney fill out the preparer section of the asylum application and complete a Form EOIR-61? Or can an attorney who works at the legal clinic fill out the preparer section of the asylum application and complete a Form EOIR-61 instead? (New Q)

A: The practitioner who provides the document assistance to a pro se noncitizen must complete the preparer section of the asylum application and a Form EOIR-61; in this hypothetical scenario, the pro bono attorney must complete the preparer section of the asylum application and complete a Form EOIR-61 to be filed with the asylum application. As noted in another question in this FAQs document, however, the pro bono attorney providing document assistance can give the completed Form EOIR-61 to the respondent, together with the completed asylum application, and the respondent – or their agent – can file it.

Q: Who may file the Form EOIR-60 or Form EOIR-61 with the BIA or immigration court?

A: The Form EOIR-60 or Form EOIR-61, together with the prepared documents, may be filed by the pro se respondent or the pro se respondent may arrange for another individual, such as the practitioner who assisted with document preparation, to file the documents in accordance with EOIR filing polices. See EOIR’s Immigration Court Practice Manual at Chapter 3 and BIA Practice Manual at Chapter 3. A Form EOIR-60 or EOIR-61 will not be accepted if a respondent already has a practitioner of record in the same proceeding.

Any prepared document or set of prepared documents received without a Form EOIR-60 or Form EOIR-61 will be rejected. This rule does not change filing procedures or requirements for pro se respondents who have not received assistance with documents or practitioners of record and no EOIR-60 or EOIR-61 is required for those filings.

Q: Is it sufficient for a practitioner who provides document assistance to a pro se respondent, but is not filing the document on behalf of the pro se respondent, to provide the pro se respondent with a completed Form EOIR-60 or EOIR-61 with instructions to file it with the document?

A: Yes. A practitioner who has provided document assistance to a pro se respondent but is not assisting with the filing of the prepared documents must provide the pro se respondent with the completed Form EOIR-60 or Form EOIR-61, together with the prepared documents, and instruct the respondent to file them together. Because limited appearances apply only to pro se respondents, it is the responsibility of the respondent to file the Form EOIR-60 or Form EOIR-61 with any prepared documents they submit to the immigration court or the BIA.

Q: If a filing clearly indicates that it was prepared by a practitioner, but there is no Form EOIR-27 or Form EOIR-60 accompanying the filing, will it be rejected by the BIA? (New Q)

A: Yes, when the Board “rejects” a paper filing, the filing is returned to the sender with a rejection notice explaining why the filing was rejected. The term “rejected” means that the filing is defective, and the Board cannot consider the filing. It is not an adjudication of the filing or a decision regarding its content. BIA Practice Manual 3.1(c)(1).

Q: In addition to completing a Form EOIR-60 or Form EOIR-61, is a practitioner required to have the pro se respondent complete a consent form that addresses the scope of the “limited” nature of the document assistance?

A: No. A separate consent form is not required by this rule because such a statement regarding scope of the assistance provided is included in the attestation that the practitioner must sign on both the Form EOIR-60 and Form EOIR-61. The attestation states, in part, that the practitioner “explained the limited nature of . . . assistance to the party named above, including an instruction that [the practitioner is] not agreeing to serve as the party’s attorney or representative in proceedings before EOIR.” See Form EOIR-60 and Form EOIR-61.

Q: When a practitioner has entered an appearance on a Form EOIR-60 or Form EOIR-61, who is responsible for serving any filed documents on the Department of Homeland Security?

A: The pro se respondent who received document assistance from a practitioner, or the designee listed on the Proof of Service, must serve DHS with the completed Form EOIR-60 or Form EOIR-61 and the prepared document or set of documents. As an example, if the practitioner is listed as the designee on the Proof of Service, the practitioner may serve DHS.

Q: When a practitioner has entered an appearance on a Form EOIR-60 or Form EOIR-61, who is responsible for serving any filed documents on the Department of Homeland Security? (New Q)

A: Either the pro se respondent who received document assistance from a practitioner, or the designee listed on the Proof of Service, must serve DHS. The service upon DHS must include both the completed Form EOIR-60 or Form EOIR-61 and the prepared documents. As an example, if the practitioner who provided document assistance is listed as the designee on the Proof of Service, the practitioner must serve DHS.

Q: Where the respondent has an eROP and a practitioner paper files the Form EOIR-61 and the prepared document, does the practitioner need to serve DHS with those documents via paper even though DHS will also get the documents through eROP?

A: Yes, DHS must be served the Form EOIR-60 or Form EOIR-61 and the prepared document(s) personally or by mail.

Q: If a practitioner has entered an appearance via Form EOIR-60 or Form EOIR-61, do they have access to the pro se respondent's record of proceedings (ROP)?

A: No. A practitioner who makes a limited appearance for document assistance is not provided with access to the pro se respondent's record of proceeding (ROP). 8 C.F.R. §§ 1003.17(b)(2), 1003.38(g)(2)(ii). Only the filing a Form EOIR-27 or EOIR-28 to become the practitioner of record provides a practitioner with access to the record of proceedings during a respondent's proceedings. 8 C.F.R §§ 1003.17(a)(2), 1003.38(g)(1)(ii). Practitioners who are not the practitioner of record in a case may obtain the ROP from the pro se respondent—who may make a request in person, by mail, or email directly to the immigration court or BIA for a copy—or practitioners may submit a Freedom of Information Act (FOIA) request to EOIR that includes signed written consent from the respondent who is the subject of the ROP. See ROP Request Instructions or How to Submit a FOIA Request. Information may also be found at Chapters 1.5(c)(3) and 12.2 of the Immigration Court Practice Manual, and Chapters 1.5(e)(3) and 13 of the BIA Practice Manual.

Q: If a practitioner assists a pro se respondent in completing a form via an online platform or over the telephone, how should the practitioner or pro se respondent file the Form EOIR-60 or Form EOIR-61, particularly if the pro se respondent is not in the geographical location of the practitioner and the pro se respondent intends to file the relevant documents on their own?

A: When a practitioner provides document assistance to a pro se respondent who will file their documents with EOIR, that practitioner must complete the Form EOIR-60 or EOIR-61 and provide it to the respondent to accompany the respondent's filing. When the respondent and practitioner are not in the same location, the practitioner may email or mail the Form EOIR-60

or Form EOIR-61 to the pro se respondent so the pro se respondent may file it in conjunction with the prepared documents. See 8 C.F.R. §§ 1003.17(b)(1), 1003.38(g)(2)(i).

Q: If a practitioner is assisting multiple pro se respondents with the same form on the same day, may the practitioner complete one Form EOIR-60 or Form EOIR-61 for all the pro se respondents to whom they provide assistance?

A: No. Practitioners must fill out a separate Form EOIR-60 or Form EOIR-61 for each pro se respondent to whom they provide document assistance.

Q: If a practitioner is assisting one pro se respondent with multiple documents on the same day, may the practitioner complete one Form EOIR-60 or Form EOIR-61?

A: Yes, but only if all the prepared documents are filed at the same time along with the Form EOIR-60 or Form EOIR-61, and the Form EOIR-60 or Form EOIR-61 explicitly lists all documents for which the practitioner provided assistance on the date the prepared documents were filed. Subsequent document assistance and filings will require separate additional submissions of the Form EOIR-60 or Form EOIR-61.

Are there additional considerations?

Q: What ethical concerns should a practitioner be aware of by engaging in document assistance on behalf of a pro se respondent?

A: If a practitioner enters an appearance via a Form EOIR-60 or Form EOIR-61, they must comply with the requirements for properly completing such forms found at 8 C.F.R. § 1003.102(t). Any actions taken on behalf of a respondent in proceedings before EOIR are subject to EOIR's Rules of Professional Conduct and the rules of the practitioner's licensing authority. See 8 C.F.R. § 1003.101 et seq. (EOIR rules and procedures regarding professional misconduct by practitioners).

Q: Does every unrepresented respondent qualify for the type of document assistance contemplated by this rule?

A: Yes. Any respondent who is in EOIR proceedings and is not represented by a practitioner of record is eligible for limited appearance document assistance by a practitioner under this rule.

Q: When should a respondent expect a practitioner to provide them with a completed Form EOIR-60 or Form EOIR-61?

A: If a practitioner has helped a pro se respondent complete a document of any kind, the pro se respondent should expect the practitioner to provide them with a Form EOIR-60 or Form EOIR-61 and that the practitioner identifies themselves by name, accompanied by their signature, on the document. 8 C.F.R. §§ 1003.38(g)(3), 1003.17(c). Any time a practitioner has assisted a pro se respondent with any task related to completing any document intended to be filed with EOIR—including a form, motion, brief, application or other document—by filling in blank spaces for the respondent, verbally telling the respondent what to write on the form, drafting or

writing the document themselves, or related actions, the practitioner must provide the pro se respondent with a completed Form EOIR-60 or Form EOIR-61.

Q: Should a respondent accept document assistance from a practitioner who does not provide a Form EOIR-60 or Form EOIR-61?

A: No. Any time a practitioner helps a respondent complete a document of any kind, the respondent should expect the practitioner to provide them with a Form EOIR-60 or Form EOIR-61 and identify themselves by name, accompanied by their signature, on the document. 8 C.F.R. §§ 1003.38(g)(3), 1003.17(c).

Q: Should a respondent accept help with their immigration case or appeal from someone who is not a practitioner?

A: A respondent may seek the assistance of someone who is not a practitioner, but that person may only assist the respondent by filling in the blank spaces on forms or providing translation services.