

OMBUDSMAN

QUARTERLY UPDATE

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From the Ombudsman

As I begin my second full year as the Ombudsman, I am pleased to share that the past twelve months brought important advancements in the Ombudsman's Office. We added new positions and experts to better fulfill our mission, focused on relevant systemic issues ranging from issuance of Requests for Evidence (RFEs) to improving the experience for people seeking refugee status, and assisted with more than three thousand requests for help. As we begin a new year, I want to share with you our top priorities.

Helping People and Employers Resolve Cases

We take pride in our ability to help people and employers with immigration and citizenship issues and we are committed to bringing new innovations to our work this year. Starting with a comprehensive review of the way we currently manage our caseload, as well as the way in which we work alongside USCIS to ensure appropriate outcomes for those who seek the Ombudsman's help. We are committed to providing sound and impartial case-specific analysis to USCIS, obtaining prompt and thoughtful evaluation and resolution of cases from USCIS, and ensuring delivery of timely and meaningful responses. We also are focused on improving our ability to better track and use case data to identify systemic issues and to inform USCIS and the public of current trends.

Influencing Change to Reduce and Eliminate Systemic Issues

In addition to the formal reviews and recommendations that the Ombudsman's Office provides to USCIS, we are increasingly working in less formal ways to identify emerging issues to USCIS and begin discussions about how problems can be addressed. As an example, this newsletter highlights our efforts on G-28 requirements, while similar work is taking place on other issues, including the Validation Instrument for Business Enterprises (VIBE) policies and operations. Being nimble and identifying potential issues early is essential to our ability to influence change.

Serving as a Voice

The Ombudsman's Office has a responsibility to be a voice on issues. We will continue to develop new communication avenues to ensure that you have a window into our work and an opportunity to share your perspective and experience with us. It takes input from a broad range of stakeholders, including customers and USCIS, to allow us to fully understand the full range of challenges and opportunities.

I would like to once again thank the many people and organizations that have invested time and effort into supporting and informing the work of our office. Please contact us with feedback or suggestions related to any of these priorities at cisombudsman@dhs.gov. We will be better able to accomplish our mission in 2011 with your input.

Most Sincerely,



January Contreras

Citizenship and Immigration Services Ombudsman



Providing People With the Help They Need One Case at a Time

The Ombudsman provides individual assistance to members of the public who have not been able to resolve a problem with their USCIS application or petition. We are often asked in what kinds of situations our assistance is most effective. Below are three recent examples in which USCIS resolved problems in response to inquiries from the Ombudsman's Office.

Case Reopened Without Fee after Government Error

After making inquiries to USCIS by letter, INFOPASS, and the National Customer Service Center toll-free 1-800 line, an applicant contacted the Ombudsman for help when he discovered that USCIS had closed his case administratively although he had never received notification. Looking into the case, the Ombudsman found that although USCIS had previously mailed a notice for biometrics to the proper address, which the applicant complied with, a local USCIS office mailed a notice of interview to the wrong address, which is why the applicant never received notice. After being informed by the Ombudsman's Office, USCIS reopened the case without fee, and a new notice for interview was mailed to the applicant's correct address.

Correction of Erroneous Employment Category Classification

Based on an approved I-40 (Immigrant Petition for Alien Worker), an individual who was eligible for a visa as an EB-2 Member of a Profession with an Advanced Degree submitted an employment-based application for a green card. Although the I-485 (Application to Register Permanent Resident or Adjust Status) application was submitted with the original I-797 (Notice of Action) indicating that the petition was approved as an EB-2, it was rejected three times during the receipting stage at a USCIS lockbox even though visas within this category, and based on the applicant's country of chargeability, were

available. The Ombudsman discovered that the USCIS database incorrectly listed the applicant's employment category as a classification for which visas were not then available. The Ombudsman's Office liaised with USCIS to correct this database error and USCIS ensured that the application was properly placed into the adjudication queue. The applicant can now move forward for green card processing.

Fee Waiver Rejections Reversed

An applicant for Special Immigrant Juvenile (SIJ) status requested help from the Ombudsman. This applicant submitted an I-485 (Application to Register Permanent Residence or Adjust Status) and an employment authorization application on the basis of having previously filed the SIJ self-petition. The applications were rejected by a USCIS lockbox with a brief statement that the applicant had failed to file with the correct fee. However, the applicant had submitted fee waiver requests and supporting documentation, which were not addressed. After receiving the case analysis from the Ombudsman's Office, USCIS approved the fee waiver requests and accepted the green card and employment authorization applications for processing.

"When DHS is not operating as it should, it is great to know that we have invaluable help in the Office of the Ombudsman, who can help prevent and correct mistakes."

-An Ombudsman Customer, December 2010

Highlights of Current Areas of Focus

Concerns with the DHS Interim Rule on Professional Conduct for Practitioners and G-28 Requirements

In the last several months, many stakeholders have raised concerns with the Ombudsman regarding the DHS February 2, 2010 interim rule, "Professional Conduct

for Practitioners: Rules, Procedures, Representation and Appearances." The DHS rule adopts a Department of Justice/Executive Office for Immigration Review rule that provides grounds to discipline practitioners for ethical violations. Stakeholders have expressed particular concern about a provision that requires practitioners to file Form G-28 (Notice of Entry of Appearance as Attorney or Representative) where they have engaged in "practice"

or "preparation," both of which are defined broadly in the regulations.

The Ombudsman continues to share your feedback with USCIS leadership, and, in particular, concerns that this rule may have a chilling effect on temporary *pro bono* assistance efforts by organizations or individuals representing underserved, low-income communities. Additionally, the Ombudsman has highlighted to USCIS operational concerns about how the rule would be implemented to process the potentially high number of G-28 forms and the companion withdrawal of representation forms that would be required by the wide net cast in the current interim rule.

While both USCIS and stakeholders acknowledge that these concerns were not broadly voiced during the public comment period several months ago, the Ombudsman is advocating that USCIS consider revising the rule to address the concerns or reopen the comment period for the rule. Reopening the comment period would allow organizations that did not fully grasp the rule's implications, or otherwise did not comment, to have the opportunity to do so. USCIS has emphasized, in discussions with the Ombudsman's Office, the importance of attorney

accountability, including in limited scope clinic intake representation. Renewing the dialogue with stakeholders on this issue would be a valuable way to come up with new ideas about how to ensure that attorney ethics rules provide for accountability in an operationally sound way without impairing the ability of organizations to assist underserved communities. Please share comments or questions with Gary Merson, Chief of Policy, at Gary.Merson@dhs.gov.

FOIA: How Is It Working for You?

On December 6, 2010, the Ombudsman's Office hosted a public teleconference on "FOIA: How Is It Working for You?" where the Ombudsman's Office interviewed USCIS officials on the FOIA process. Inquiries related to the topics raised in this teleconference can be directed to Margaret Gleason, Senior Advisor to the Ombudsman, at Margaret.Gleason@dhs.gov.

Issues Under Review

The Ombudsman team is constantly conducting reviews or projects related to a number of USCIS processes and responsibilities. We highlight three current projects below. If you would like to share your experience with our team, highlight a best practice, or submit a case related to a particular issue, please reach out to the named contact.

- Employment Authorization Document Processing – Hae-jin.Choi@dhs.gov
- Nonimmigrant Case Processing and Communication Issues between USCIS and DOS (PIMS) – Jonathan.Perezous@dhs.gov
- Special Immigrant Juveniles and Unaccompanied Minors – Stephanie.Fast@dhs.gov

Reaching Out to the Community



In September 2010, Ombudsman January Contreras delivered remarks at a Naturalization Oath Ceremony in the Grand Canyon National Park.

“Congratulations, not only on now being the newest citizens of this wonderful nation, but congratulations on the journeys that you experienced to reach this special moment. I can only imagine what the journey was like for each of you. What is your story? Were you guided by education, employment opportunities, by the desire to offer a different life to your family, to flee difficult circumstances, or any combination of these? I wish I could sit down and hear your stories because I am certain that each of your stories carries a great deal of pride for you and a greater amount of inspiration for others. . . . This country is a special place. We all have a story. As you look back at your story so far, remember that you have the opportunity to write the rest of your story.”

Ombudsman January Contreras

Since June, the Ombudsman and staff have engaged with stakeholders and the public in various regions of the country. We accomplish this through phone teleconferences and visits.

Has the Ombudsman’s Office engaged with your organization or community?

If your organization or community would benefit from dialogue with the Ombudsman’s Office, please contact Shawna.Lanczycki@dhs.gov

TALK TO US

Citizenship and Immigration Services
Ombudsman

cisombudsman@dhs.gov

202-357-8100

www.dhs.gov/cisombudsman

*sign up on our website to receive periodic email updates from the Ombudsman

HOW THE OMBUDSMAN WORKS FOR YOU

The Ombudsman is here to help individuals and employers who need to resolve a problem with U.S. Citizenship and Immigration Services (USCIS). The Ombudsman also makes recommendations to fix systemic problems and improve the quality of services provided by USCIS.

The Ombudsman is an independent, confidential, and impartial resource within the Department of Homeland Security.