

The Standards must be read in conjunction with the Rules Governing the State Bar of California Program for Certifying Legal Specialists, which govern the Program requirements.

THE STANDARDS FOR CERTIFICATION AND RECERTIFICATION IN IMMIGRATION AND NATIONALITY LAW

July 5, 2010 Proposed Amendments

1.0 DEFINITION

Immigration and nationality law is the practice of law dealing with matters arising under and related to the Immigration and Nationality Act of 1952, as amended (Title 8 U.S. Code), and other laws and regulations dealing with immigration and naturalization.

2.0 TASK REQUIREMENT FOR CERTIFICATION

An applicant must demonstrate that, within the five years immediately preceding submission of the written application, he or she has been substantially involved in the practice of immigration and nationality law. A prima facie showing of substantial involvement in the area of immigration and nationality law is made by performance of the following activities:

- 2.1 Participated as principal attorney in 150 cases in the following two categories, with not less than ~~25~~ five cases in each category:
 - 2.1.1 Application for immigrant and nonimmigrant status, and
 - 2.1.2 ~~Removal, deportation, or exclusion hearings before immigration judges. Not less than three~~ two cases in this category must be ~~contested proceedings~~ individual hearings on the merits of an application for relief or a non-frivolous motion to terminate; and
- 2.2 Participated as principal attorney in six of the following 13 procedures and at least three cases in each of the six procedures
 - 2.2.1 Naturalization or Nationality cases,
 - 2.2.2 Administrative Appellate Practice,
 - 2.2.3 Judicial review of immigration proceedings in the federal courts (includes but is not limited to: Petition for Review, Habeas Corpus, Petition for Declaration of Judgment, Writ of Mandamus);
 - 2.2.4 Labor certifications,
 - 2.2.5 Contested removal, deportation or exclusion hearings or rescission proceedings before immigration judges,
 - 2.2.6 Motions, writs or pleas in criminal cases relating to collateral immigration consequences in federal or state courts,
 - 2.2.7 Bond or custody proceedings,
 - 2.2.8 Refugee or asylum applications,
 - 2.2.9 State Department or Consular Practice,
 - 2.2.10 Immigrant visa petitions, applications, or immigrant waivers,

- 2.2.11 Immigration consequences of mergers, reorganizations, downsizing and other business or employment changes,
- 2.2.12 Non-immigrant visa petitions or applications, or non-immigrant waivers (includes, but not limited to ancillary applications such as labor condition applications),
- 2.2.13 If the above categories do not apply, any other subject matter category may be used such as, but not limited to, immigration related enforcement proceedings other than immigration court. The applicant must submit descriptions of each category.

Principal attorney is the attorney who spends a majority of the time on a case in the activities of preparation, review, filing and representing a client at an interview or hearing. There can be only one principal attorney per case.

3.0 EDUCATIONAL REQUIREMENT FOR CERTIFICATION

An applicant must show that within the three years immediately preceding the application for certification, he or she has completed not less than 45 hours of educational activities specifically approved for immigration and nationality law, as follows:

- 3.1 Immigrant Visas (minimum of 15 hours required) - immediate relatives; relative preference categories; special immigrants; labor certification; grounds for exclusion and waivers; adjustment of status; legalization; registry and consular procedures;
- 3.2 Non-Immigrant Visas (minimum of 8 hours required) - change of non-immigrant status and all categories of non-immigrant visas;
- 3.3 Removal/Deportation/Exclusion Procedures (minimum of 12 hours required) - arrest and custody procedures; removal/deportation/exclusion grounds and waivers; defenses; immigration and administrative law court procedures and rules; employer sanctions; anti-discrimination procedures and defenses;
- 3.4 Administrative and Judicial Review (minimum of 6 hours required) - appeals to an appellate body of the Department of Justice, Department of State, Department of Labor; motions to reopen; motions for reconsideration. The subject matter of Judicial Review may include: appeals to the Court of Appeals, *habeas corpus* proceedings, and other district court actions; and
- 3.5 Citizenship and Naturalization (minimum of 4 hours required) - naturalization; derivation; acquisition and loss of citizenship.

4.0 TASK REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that, during the current five-year certification period, he or she has had direct and substantial participation in the practice of immigration and nationality law. The Commission will accept the following activities as compliance with the task requirement:

- 4.1 Direct and substantial Participation as ~~principal~~ attorney in 150 cases; and
- 4.2 Participation as principal attorney in six of the 13 procedures listed under section 2.2 above, with at least three cases in each of the six procedures.

5.0 EDUCATIONAL REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that, during the current five-year certification period, he or she has completed not less than 60 hours of educational activities specifically approved for immigration and nationality law specialists, not less than 45 of which must be shown in the same manner as in section 3.0.