

GMS Flash Alert



Immigration Edition

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United States - Updated USCIS Guidance on Signature Requirements, Power of Attorney

This GMS *Flash Alert* reports on a recent U.S. Citizenship and Immigration Service policy regarding the signature requirement for paper applications, petitions, requests, and other documents that require a signature prior to filing with USCIS.

On February 15, 2018, the U.S. Citizenship and Immigration Service (USCIS) updated an interim policy memorandum changing the signature requirements for paper forms, as well as clarifying the uses for powers of attorney (POA) in those forms.¹

WHY THIS MATTERS

For companies who use a POA from outside counsel to sign and submit filings to USCIS, the updated guidance provides that these types of signatures will no longer be accepted as of **March 17, 2018**.

Additionally, the policy memo includes other signature requirements for employers. Most notably, the person signing on the company's behalf **must have the legal authority to bind the company**.

The new signature requirements will most significantly impact those companies who regularly rely on a POA to expedite signatures and filing of documents with USCIS. **This policy memo will affect FY2019 H-1B Cap filings.**

New Policy

The following persons are examples of **authorized signatories** under the new policy requirements:

- 1) An executive officer of a corporation or professional corporation with authority to act on behalf of the corporate entity and to legally bind and commit the corporate entity in all matters, such as the chief executive officer, president, vice president;
- 2) A managing member or managing partner of a limited liability corporation or limited liability partnership;

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- 3) A duly authorized partner of a partnership;
- 4) An attorney employed in an employer-employee relationship by the corporation or other legal entity as its legal representative or as a legal representative by the corporation or other legal entity's legal department in an employer-employee relationship, such as in-house counsel or other attorney employees;
- 5) A person employed in an employer-employee relationship as a human resources professional within the entity's human resources, human capital, employee relations, personnel, or similar department who is authorized to sign legal documents on behalf of the corporation or other legal entity; or
- 6) Any other person employed in an employer-employee relationship by the corporation or other legal entity who has the authority to legally bind and commit the corporation or other legal entity to the terms and conditions attached to the specific request and attestations made in the request. It does matter what this person's title is or the name of this person's department in the corporation or other legal entity.

Further, the submission **must** include a statement from the employer's signatory attesting that: **(1)** she or he has the legal authority to file the request on the petitioning employer's behalf; **(2)** the employer is aware of all of the facts stated in the request; and **(3)** such factual statements are complete, true, and correct.

If signature requirements are defective as of the submission date, there is **no way to cure the defect**, and the application or petition will be denied.

KPMG NOTE

The changes will require that companies modify their policies and procedures to account for the termination of the ability to use outside counsel for POA and the identification of acceptable signatories consistent with the new guidance.

Furthermore, affected parties may wish to reach out to their immigration counsel to discuss how this updated memo may affect processing and to identify ways to address any processing concerns they may have.

Context

Previously, under the interim memo released on June 7, 2016, so long as attorneys acting on behalf of the organizations filing for USCIS possessed a signed and valid POA, the attorney would be able to sign on behalf of the company in limited circumstances. This updated policy memo removes those provisions, and replaces it with the signature requirements outlined above.

FOOTNOTE:

1 Feb. 15, 2018 [policy memorandum](#), "Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services," PM-602-0134.1.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada.



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