

Form G-28 and Form G-639 in USCIS Investigatory and Representational Contexts: A Legal Analysis

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FINDINGS

FORM G-28 AND FORM G-639 IN USCIS INVESTIGATORY AND REPRESENTATIONAL CONTEXTS: A COMPREHENSIVE LEGAL ANALYSIS

This report addresses the complementary roles of Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative) and Form G-639 (Freedom of Information/Privacy Act Request) within USCIS processes, with particular emphasis on how these forms function in investigatory, enforcement, and record-access scenarios. Form G-28 establishes legal representation before Department of Homeland Security agencies and is mandatory whenever an attorney or accredited representative handles any immigration matter, including applications, petitions, removal proceedings, and responses to agency inquiries.[1][3][14] Form G-639, by contrast, serves as the primary mechanism for individuals to request access to their own immigration records or the records of others (with appropriate consent) under the Freedom of Information Act and Privacy Act.[1][8][23] While these forms operate in different procedural contexts, they frequently interact in complex immigration cases where applicants seek both legal representation and access to their file contents, particularly when facing USCIS inquiries, investigatory actions, or enforcement proceedings. Understanding the distinct purposes, filing requirements, and procedural implications of each form is essential for practitioners navigating Northern California immigration practice and the broader federal immigration system.

Legal Framework Governing Form G-28 and Representation

Statutory Authority and Regulatory Foundation

The legal authority for representation in immigration matters derives from section 292 of the Immigration and Nationality Act, codified at 8 U.S.C. § 1292, which establishes who may appear on behalf of applicants, petitioners, and respondents before Department of Homeland Security agencies.[27] The implementing regulations appear in 8 CFR Part 292, which specifies that persons entitled to representation may be represented by licensed attorneys, law students under supervision, accredited representatives, reputable individuals in limited circumstances, accredited officials, and foreign attorneys in matters outside the United States.[27][47] Form G-28 itself is required under 8 CFR § 103.2(a)(3) and 8 CFR § 292.1, which mandate that any attorney or accredited representative appearing before DHS must file Form G-28 in each case to establish their eligibility to represent and to authorize the distribution of case information and official correspondence.[17][18][38][47]

The regulatory scheme treats representation filing as a jurisdictional requirement rather than a mere procedural formality. Under 8 CFR § 292.1(a), DHS will only recognize a properly completed Form G-28 that has been signed by both the attorney or accredited representative and the client.[17][38][45] Without proper Form G-28 filing, DHS agencies—including USCIS, ICE, and CBP—will not communicate with the purported representative, will not grant them access to case files, and will not permit them to file documents or appear on the client's behalf.[3][14][35] This means that even where an attorney-client relationship exists as a matter of contract or professional obligation, the absence of a filed Form G-28 leaves the representative without any legal standing to act before immigration agencies, creating potential malpractice liability and procedural complications that can result in missed deadlines, forfeited rights, and case denials.

The form serves dual purposes under the regulatory structure. First, it establishes the eligibility of the individual claiming to act as a representative by requiring disclosure of bar admission status, accreditation credentials, or other qualifying authority.[17][38] Second, it serves as the formal authorization from the client

that permits the representative to receive all official correspondence, notices, requests for evidence, denials, and approvals directly from the agency rather than having such communications sent to the applicant's address. This protective function is particularly significant in cases where the applicant may be difficult to contact, unable to understand complex legal notices, or at risk of missing critical deadlines due to language barriers or unfamiliarity with the immigration process.

Eligibility Categories for Representation

Form G-28 may only be filed by individuals falling within defined eligibility categories. Licensed attorneys practicing in the United States, as defined in 8 CFR § 1.2, constitute the largest category and require only proof of bar admission in any U.S. state.[47] Law students enrolled in ABA-accredited law schools may appear under supervision of a licensed attorney or accredited representative in legal aid clinics or nonprofit programs if they file a statement attesting to their status and lack of direct or indirect remuneration.[47] Law graduates not yet admitted to the bar may similarly appear under supervision with a filed statement. Accredited representatives must be affiliated with organizations approved under 8 CFR § 292.2 and must have been individually accredited by the Board of Immigration Appeals (BIA).[47] Reputable individuals of good moral character may appear in individual cases on a pro-bono basis without remuneration if they have a pre-existing relationship with the client and if the DHS official permits such appearance, though this category is rarely encountered in modern practice and carries significant limitations.[47]

Notably, the regulatory framework explicitly prohibits certain individuals from appearing as representatives. Former Department of Justice employees are subject to federal ethics restrictions under 28 CFR 45.735-7 and cannot represent clients in cases they worked on while employed by DOJ.[47] Paralegals and notaries, despite their frequent involvement in form preparation, cannot appear as representatives or file Form G-28 designating themselves as such—a clarification that became particularly important as of July 25, 2025, when USCIS proposed revisions to Form G-28 to explicitly remove the paralegal designation option that had previously been available.[5] This change reflects heightened USCIS scrutiny of representation credentials and may affect established practices in immigration law offices that had previously utilized paralegal designation for limited correspondence purposes.

Current Regulatory Updates and Proposed Changes

As of July 2025, USCIS announced proposed revisions to Form G-28 that will eliminate the ability of applicants to designate a paralegal to communicate about their immigration cases.[5] The notice of information collection indicated that while Form G-28 itself was being revised to remove the paralegal designation option, Form G-28I (Notice of Entry of Appearance as Attorney in Matters Outside the Geographical Confines of the United States) would remain unchanged.[5] This represents a significant policy shift that narrows the categories of individuals who can be officially recognized as conduits for case communication, potentially requiring many immigration law practices to adjust their office protocols for handling client communications and document transmission. The comment period for this proposed rule ended on September 23, 2025, and practitioners should anticipate that the revised form will likely become effective in the near term, making it imperative to verify current form versions before filing.

Legal Framework Governing Form G-639 and Records Access

Statutory Authority Under FOIA and the Privacy Act

Form G-639 implements statutory rights established in the Freedom of Information Act (FOIA), codified at 5 U.S.C. § 552, and the Privacy Act of 1974, codified at 5 U.S.C. § 552a.[1][23][26] These statutes create

independent rights of access to federal agency records. FOIA permits any person, regardless of citizenship or immigration status, to request and obtain copies of federal agency records, with certain enumerated exemptions.[26][40] The Privacy Act, by contrast, is available only to U.S. citizens and lawful permanent residents and permits them to request access to records about themselves, to obtain copies, to correct or amend inaccurate records, and to determine what records are maintained about them by federal agencies.[1][23][26]

USCIS created Form G-639 as the standard mechanism for submitting FOIA and Privacy Act requests to the agency, though the form itself is not mandatory-requesters may submit letter requests instead.[1][40][51] The form provides a structured format that helps USCIS efficiently locate records and process requests within statutory timeframes. Form G-639 can be submitted to USCIS by mail, fax, email, or through the online Freedom of Information Act Records System (FIRST) portal operated by USCIS.[1][6][51] The instructions for Form G-639 explicitly state that the form may be used "to obtain access to USCIS records" and "to allow to another individual to access USCIS records pertaining to you," thus permitting both first-party and third-party requests with appropriate authorization.[8][23][46]

Distinction from Form G-28 in Records Access Context

A critical distinction must be understood between Form G-28 representation and Form G-639 records access authorization. Form G-28 authorizes an attorney to act on behalf of a client in all immigration matters and to receive official agency correspondence regarding pending or adjudicated cases.[1][23][35] Form G-639, by contrast, specifically addresses the client's request for access to their own immigration records or records relating to them. While an attorney designated on Form G-28 does receive USCIS correspondence regarding a pending application, that attorney may not automatically receive copies of the client's complete A-File (Alien File)-the comprehensive record maintained by USCIS containing all documents, communications, and decisions related to an individual's immigration history.[37][40] To obtain the complete A-File or specific records not directly related to a pending application, the client must submit a separate Form G-639 request, either directly or through an authorized representative.[37][40]

When a representative seeks to access records on behalf of a client through Form G-639, the representative must provide either a signed Form G-28 establishing representation or a written consent/authorization from the client, along with identity verification for the subject of the record.[8][23][37][40] Recent revisions to Form G-639 (as of November 2022) changed the signature requirements such that when a representative submits a Form G-639 request, the client must sign in two places: once as the requester and again as the subject of record giving consent.[43] Notably, under the current Form G-639 version, the representative/attorney is not required to sign the form-only the client/subject of record must sign to provide consent for release of information.[43] Alternatively, in online submissions through FIRST, the representative can upload a signed Form G-28 and Form G-639 together, whereupon USCIS will request verification of consent from the client through email or text message, asking the client to approve, deny, or request modification of the records release.[43]

Nature and Scope of USCIS Inquiry and Investigatory Processes

Distinction Between Agency Inquiries and Internal Management Inquiries

The research reveals an important distinction that directly impacts how Form G-28 and Form G-639 relate to investigatory contexts. USCIS operates two distinct types of inquiries. First, the agency conducts inquiries directed at applicants and petitioners as part of the standard adjudication process-these are exemplified by Requests for Evidence (RFEs) and Notices of Intent to Deny (NOIDs), which are routine adjudicatory mechanisms, not investigatory actions in the law enforcement sense.[2][3][31] Second, USCIS's Office of

Security and Integrity (OSI) conducts internal Management Inquiries into allegations of employee misconduct within USCIS itself; these are fundamentally different from applicant-directed inquiries.[7][12][19][20][34][44][48][55]

The USCIS Management Inquiry Handbook, last revised in March 2015 and released through FOIA, reveals the structure and procedures applicable to internal management inquiries.[7][12][19][20][34][44][48][55] A Management Inquiry is defined as "an inquiry into alleged employee misconduct that is not criminal in nature," conducted by Management Inquiry Officers (MIOs) to determine whether misconduct occurred and to gather evidence that either corroborates or refutes allegations.[7][12][19][20][34][44][48][55] These inquiries are explicitly characterized as "fundamentally non-criminal" and distinct from criminal investigations.[7][12][19][20][34][44][48][55] The Management Inquiry process includes planning stages, witness identification, interviews with employees and contractors, collection of documentary evidence, and preparation of a Management Inquiry Report.[7][12][19][20][34][44][48][55]

Critically, management inquiries conducted by OSI involve different representation rules than those applicable to immigration applicants. USCIS employees and contractors interviewed as part of a management inquiry have certain statutory and contractual rights including the right to union representation for bargaining unit employees, the right to have counsel present during interviews if they are not in a custodial setting, and notification of their rights under the Privacy Act.[7][12][19][20][34][44][48][55] However, these management inquiries are internal disciplinary processes, not immigration adjudications, and therefore do not implicate Form G-28 representation in the standard immigration law context. Form G-28 is designed for representation of applicants, petitioners, and respondents in immigration benefit applications and removal proceedings, not for representation of USCIS employees subject to internal investigations.

USCIS Inquiries Directed at Applicants: The Standard Adjudicatory Framework

When USCIS directs inquiries to applicants and petitioners during the course of adjudicating applications, those inquiries take the form of Requests for Evidence (RFEs) or Notices of Intent to Deny (NOIDs).[2][3] These are standard adjudicatory mechanisms governed by 8 CFR § 103.2(b)(8). If an applicant has filed Form G-28 with a pending application, the attorney or accredited representative receives the RFE or NOID directly and is responsible for preparing and filing a response within the specified timeframe, typically 87 days for RFEs or similar periods for NOIDs.[2][3] The representative's role in this context is to gather evidence, draft a compelling response, and ensure timely submission to the appropriate USCIS office.

When USCIS issues an RFE or NOID to an applicant who is represented on Form G-28, USCIS also provides guidance about the types of evidence that will be considered to establish eligibility.[3][18][21] The burden rests on the applicant (or their representative) to submit evidence demonstrating that the applicant meets the statutory and regulatory requirements for the benefit sought and, in discretionary cases, that the applicant merits favorable exercise of discretion.[21][38][41] If the applicant does not respond within the specified timeframe, USCIS may deny the application for abandonment or may issue a final denial without further consideration.[3][18][21]

Procedural Rights in Investigatory and Enforcement Contexts

When USCIS initiates enforcement actions against applicants—such as investigations into suspected fraud, document falsification, or misrepresentation—the procedural framework shifts. While detailed procedures for applicant-directed fraud investigations are not extensively documented in the search results provided, the availability of Form G-28 representation remains consistent. Any applicant facing USCIS inquiry or investigation may retain an attorney or accredited representative and file Form G-28 to authorize

representation in those proceedings.[14][35][38][49] Such representation enables the attorney to receive communications from USCIS, to advise the client regarding their rights, to assess the strength of the agency's allegations, and to prepare strategic responses.

Critically, applicants facing USCIS inquiries or investigations do not have a right to court-appointed counsel at government expense—representation is "at [their] own expense." [30][33] While immigrants in removal proceedings before an immigration judge are guaranteed a statutory right to counsel under 8 U.S.C. § 1229b(b)(4)(A), that right is also without government cost, and the government is not obligated to provide representation.[30][33] This stands in sharp contrast to criminal proceedings where indigent defendants facing incarceration receive appointed counsel under the Sixth Amendment.[30][33]

Current Legal Landscape and Recent Developments

Recent Changes to Representation Requirements and Form G-28 Updates

As noted above, USCIS announced proposed revisions to Form G-28 effective July 25, 2025, eliminating the paralegal designation option.[5] Additionally, practitioners should be aware that USCIS has been gradually implementing online filing capabilities through various platforms. The agency has expanded its myUSCIS account functionality to allow representatives to link cases directly to their accounts, enabling faster receipt of electronic notifications and document uploads.[14][35] These technological changes require practitioners to verify that they are using current form versions and are familiar with the agency's evolving digital filing systems.

A second significant development involves the expansion of USCIS's neighborhood investigation procedures for naturalization applicants. Effective August 22, 2025, USCIS ended its general waiver of neighborhood investigations under INA § 335(a) and resumed case-by-case discretionary determinations regarding whether to conduct such investigations.[13][16] While this change primarily affects naturalization cases rather than general applicant inquiries, it exemplifies USCIS's renewed focus on thorough vetting and investigation of applicants, suggesting potential increased scrutiny in other contexts as well. The policy shift may result in more frequent USCIS inquiries into applicants' residency, community reputation, employment history, and character—precisely the type of investigatory activity that makes timely Form G-28 filing critical to ensure that representatives receive all related notices and can organize evidence in response.

FOIA Modernization and Form G-639 Processing Changes

USCIS launched the Freedom of Information Act Records System (FIRST) as a fully digital FOIA submission and tracking portal in July 2019.[51] FIRST represents the agency's modernization of FOIA request processing and now serves as one of three primary mechanisms for submitting Form G-639 requests to USCIS (along with mail/fax/email to the National Records Center and the DHS-wide online request form).[51] The November 2022 revisions to Form G-639 simplified certain aspects of the form while clarifying signature and consent requirements, particularly in third-party request scenarios.[43][46] Practitioners should note that FIRST now accepts both Form G-639 filings directly and combined Form G-28 plus Form G-639 submissions, with the latter triggering automatic consent verification through email or text message from the subject of record.[43]

Relationship to Broader Immigration Enforcement Landscape

As of February 2026, the federal immigration enforcement landscape has shifted significantly. The Doyle memorandum, which since 2011 had provided guidance limiting prosecutorial discretion and providing categories of cases that should be deprioritized for enforcement, is no longer operative as of December 2025,

and no replacement guidance has been issued.[1] This means that immigration enforcement priorities are currently in flux, and prosecutors at ICE and other enforcement agencies are operating without the previously controlling internal guidance regarding prosecutorial discretion. This uncertainty increases the importance of timely legal representation for any applicant or beneficiary facing USCIS inquiries or enforcement contact, as the legal landscape may shift rapidly in response to administrative actions or guidance issued by the incoming administration.

San Francisco and Northern California Specific Context

San Francisco Immigration Court and USCIS Adjudication Patterns

The San Francisco Immigration Court operates multiple hearing locations including the main courthouse at 100 Montgomery Street, Suite 800, a second location at 630 Sansome Street, 4th Floor, Room 475, and a Concord hearing location at 1855 Gateway Boulevard, Suite 850, Concord, California.[1] Practitioners in Northern California should be aware that San Francisco immigration judges have developed specific procedural preferences and evidence-handling protocols that may affect how cases are developed and presented. While individual judge preferences are not comprehensively documented in the search results, practitioners should consult local bar associations and experienced San Francisco immigration attorneys for current information regarding specific judges' tendencies regarding Form G-28 entry of appearance, continuances, evidence submission deadlines, and related procedural matters.

The San Francisco Asylum Office maintains specific interview procedures and timeline expectations for asylum applicants. Understanding regional patterns can inform strategic decisions about whether to file Form G-28 representation early in the asylum process or to request Form G-639 access to one's file to assess what information is already in USCIS's possession before the formal interview. Given the heavy asylum caseload from Central America (Guatemala, El Salvador, Honduras, Nicaragua) that characterizes Northern California immigration practice, attorneys regularly encounter situations where clients arrive in the United States and immediately begin the credible fear interview process, often without legal representation. In such cases, Form G-28 may be filed after the credible fear interview occurs but before the formal removal hearing, enabling the attorney to represent the client during the immigration court removal proceedings while the client represents themselves during the credible fear stage (or with assistance but without formal legal representation).

California State Law Interactions with Immigration Consequences

Northern California practitioners must carefully consider interactions between California state criminal law and immigration consequences, particularly as such considerations affect decisions about legal representation and information access. Under California Penal Code § 1473.7, a defendant may move to vacate a conviction that has immigration consequences if the conviction rests on a guilty plea without adequate advisement of immigration consequences or on ineffective assistance of counsel regarding immigration consequences.[1] Under California Penal Code § 1203.43, upon motion, a court must vacate a conviction when the immigration consequences are unjust, the defendant is no longer in prison, and the defendant has completed probation or parole.[1] These state-level post-conviction relief procedures may involve FOIA requests for government records regarding the original conviction, requiring coordination between Form G-639 requests to USCIS and parallel requests to local law enforcement and county district attorney offices for criminal history documentation.

Additionally, California's implementation of Proposition 47 and related sentencing reform legislation has reduced many drug and theft offenses to misdemeanors, which can have significant implications for clients with deportation exposure. Practitioners representing immigrant clients in criminal matters must understand

how state-level sentence modifications affect federal immigration consequences and may need to file Form G-639 requests to USCIS to obtain copies of charging documents, conviction records, and sentencing information to assess immigration exposure and develop mitigation strategies.

ICE Enforcement Patterns and Alternatives to Detention in Northern California

ICE's Field Office 1, which covers Northern California, maintains specific detention policies and enforcement priorities that may inform how clients respond to investigatory inquiries from USCIS. If a USCIS inquiry develops into a referral for removal proceedings, the availability of alternatives to detention (such as bond hearings, case management alternatives, and community-based supervision) varies by facility and by individual circumstances. Northern California practitioners should maintain current information regarding ICE detention facility locations, capacity, and procedures, as well as current information about bond amounts and hearing procedures at the San Francisco Immigration Court.

Strategic Analysis of Form G-28 and Form G-639 in Investigatory Contexts

Arguments Favoring Timely Form G-28 Filing in Response to Investigatory Inquiries

Several compelling arguments support the strategy of filing Form G-28 promptly upon becoming aware that a client is subject to a USCIS inquiry or investigatory action. First, from a defensive standpoint, early Form G-28 filing ensures that the client's attorney receives all subsequent communications from USCIS, enabling the attorney to assess the nature and strength of the inquiry, to advise the client of their rights, and to prepare a strategic response without risk of missed deadlines.[1][3][35] The cost of filing Form G-28 is minimal-there is no fee associated with Form G-28 itself-and the jurisdictional benefits of establishing representation are substantial.[1][3][35][38] Second, early attorney involvement permits the attorney to advise the client regarding strategic decisions about whether and how to respond to USCIS inquiries, whether to request Form G-639 access to the client's own file to assess what information USCIS has already gathered, and whether to preserve the client's Fifth Amendment rights against self-incrimination in certain contexts.[1][14][30]

Third, from a professional responsibility standpoint, once an attorney-client relationship exists, the attorney has ethical obligations to provide competent representation and to keep the client informed of material developments in the matter. Filing Form G-28 ensures that USCIS treats the attorney as the responsible party for communication and document submission, protecting both the client and the attorney from the scenario in which critical documents are sent to the client, the client misunderstands them or fails to forward them to the attorney, and deadlines are missed.[1][3][14][35]

Arguments Counseling Caution About Form G-639 Requests During Active Investigations

While Form G-639 access to one's complete A-File can provide valuable intelligence regarding what information USCIS has gathered about a client, practitioners should consider several counterarguments before submitting a Form G-639 request during an active USCIS investigation or inquiry. First, submitting a Form G-639 request creates a paper trail and formal record indicating that the attorney is aware of a potential issue and is seeking to investigate it.[40] In some contexts, this document trail could potentially be used against the client as evidence of consciousness of guilt or awareness of problems in the file. However, this concern is most acute in criminal contexts; in the immigration context, it is generally understood that immigrants have a right to access their own records, and the mere fact of requesting access should not create an inference of misconduct.

Second, Form G-639 requests are not priority-processed and may take several months to receive a response, whereas the attorney's own Form G-28 representation already grants access to certain categories of

information (such as RFEs, NOIDs, and decision letters) without the necessity of a separate FOIA request.[35][40] If the matter is time-sensitive, waiting for a complete Form G-639 response may not be strategically sound. However, if the client's case is not yet in removal proceedings and significant time remains before USCIS is expected to issue a final decision, a Form G-639 request may yield complete file information in time to inform settlement negotiations or response strategies.

Third, Form G-639 requests reveal the requestor's identity and contact information to USCIS.[40][43] While this information is generally already known to USCIS (if the client is represented on Form G-28, the attorney's contact information is already on file), the separate Form G-639 request creates an independent record trail that could potentially be subpoenaed or reviewed in subsequent proceedings.

Advantages of Combined Form G-28 and Form G-639 Strategy in Investigatory Cases

A moderate-risk, medium-reward strategy involves filing both Form G-28 and Form G-639 concurrently or in close sequence as part of a comprehensive investigatory response. This approach permits the attorney to establish formal representation (Form G-28), ensuring receipt of all subsequent agency communications, while simultaneously requesting access to the complete client file (Form G-639) to enable thorough assessment of USCIS's knowledge and concerns. The combined filing through FIRST platform streamlines the process and provides the client with prompt notification of the records request and with the opportunity to monitor the status of the records request alongside monitoring the status of any pending application.

The strategic value of this approach lies in gaining comprehensive intelligence regarding USCIS's investigative findings while establishing formal representation that permits the attorney to prepare a coordinated response. By the time the Form G-639 records arrive (typically within several months), the attorney will also have received any RFEs or NOIDs that USCIS has issued (through Form G-28 representation), and the combination of the complete A-File and the specific inquiry from USCIS will permit the attorney to develop a fully informed strategic response.

Collateral Consequences and Reputational Risks

Practitioners should be aware that filing Form G-28 in response to a USCIS inquiry, while entirely proper and generally protective of the client's interests, creates a formal legal record indicating that the client is represented by counsel in connection with an investigation. In some employment contexts or professional licensing contexts, this information could potentially become known to employers or licensing boards if the matter later involves removal proceedings or court litigation. However, this collateral consequence must be weighed against the substantial risk that absent representation, the client will miss critical deadlines, will misunderstand USCIS notices, or will waive important rights through inadvertent statements or document submissions.

Practical Implementation and Procedural Roadmap

Step-by-Step Timeline for Form G-28 Filing in Investigatory Contexts

Upon learning that a client is subject to a USCIS inquiry or investigatory action, the practitioner should follow a structured timeline. First, within two business days, the attorney should consult with the client to confirm the client's desire to retain representation and to explain the implications of filing Form G-28, including the fact that all subsequent USCIS communications will be directed to the attorney rather than the client and that the attorney will be responsible for meeting filing deadlines. Second, within five business days, the attorney should prepare and file Form G-28, utilizing the current version available on the USCIS website to ensure compliance with all form requirements.[1][14][35][38]

Form G-28 filing requires completion of several key sections. Part 1 requests information about the attorney or accredited representative, including full name, mailing address, contact telephone number, and fax number.[17][38] Part 2 requests eligibility information, including whether the representative is an attorney (with bar number), a law student or graduate (with supervision information), an accredited representative (with accreditation information), a reputable individual, or a foreign attorney.[17][38] Part 3 requests information about the client, including the client's full name, address, date of birth, and A-number if available.[17][38] Part 4 requests information about the client's signature, confirming the client's consent to representation and authorization for the attorney to receive all communications.[17][38] Part 5 requests the attorney's signature and date.[17][38]

Within ten business days of filing Form G-28, the attorney should follow up with USCIS to confirm receipt and to determine which USCIS office will be handling the client's matter, should the client's case be in a preliminary or pre-referral stage. If the client has already received an initial inquiry from USCIS (such as an RFE or NOID), the attorney should obtain a copy and review it thoroughly to understand the specific allegations or information gaps USCIS has identified.

Documentation Requirements and Evidence Gathering for Investigatory Responses

Once Form G-28 is filed and the attorney has received copies of all USCIS inquiries, the next step is to assess what evidence will be necessary to respond to USCIS's specific concerns. USCIS inquiries in investigatory contexts often focus on one or more of several common themes: document authenticity, factual accuracy of prior statements or applications, eligibility for the benefit sought, admissibility on statutory or regulatory grounds, or discretionary suitability for relief. The attorney must review the specific grounds for inquiry and then organize evidence into categories that directly address each concern.

In cases involving document authenticity concerns, the practitioner may need to obtain certified copies of original documents from foreign government sources, translations by qualified translators, and expert testimony regarding document authenticity if necessary. California evidence law and federal rules regarding expert testimony will apply to any immigration court proceeding that results, making it important to develop a foundation for expert evidence early in the investigatory response phase.[1] In cases involving factual accuracy concerns—such as allegations of misrepresentation or fraud—the practitioner must carefully distinguish between genuine factual disputes (where additional evidence or testimony might resolve the matter) and situations where the evidence appears to support USCIS's allegation (in which case mitigation rather than denial may be the appropriate strategy).

Decision Points Regarding Form G-639 Records Requests

The decision of whether to file a separate Form G-639 records request should be made strategically based on several factors. If the attorney has already received detailed RFEs or NOIDs from USCIS that clearly explain USCIS's concerns, the value added by a complete Form G-639 A-File request may be limited. However, if USCIS's inquiry is vague or if the attorney suspects that USCIS may have information in the file that has not yet been disclosed in any inquiry letter, a Form G-639 request can provide comprehensive intelligence. Additionally, if the client has had multiple interactions with USCIS over many years or through multiple immigration benefit categories, the complete A-File may reveal historical information, prior statements, or prior USCIS determinations that are directly relevant to the current investigation.

Form G-639 requests should specify as precisely as possible what records are sought. Rather than requesting "all records," the practitioner should identify specific categories of interest: "All documents dated after January 1, 2020, relating to [client's name]'s Form I-485 application and subsequent communications with

USCIS," or "All documents relating to [client's name]'s background investigation, security screening, or investigations by the Office of Security and Integrity." Specific requests are more likely to be processed promptly and are less likely to result in USCIS requesting clarification about the scope of the request.[40][51]

Form G-639 requests should be submitted through FIRST if possible, as the online platform permits real-time status tracking and enables the client to provide consent verification electronically rather than requiring mailed documentation.[43][51] When submitting through FIRST, the representative should complete all required information regarding both the representative (third-party requestor) and the subject of record (the client), and should upload a signed Form G-28 and Form G-639 if available to facilitate processing.[43]

Processing Timelines and Realistic Expectations

Practitioners must set realistic expectations with clients regarding the timelines for USCIS responses to both investigatory inquiries and Form G-639 requests. USCIS typically provides 87 days (approximately three months) to respond to Requests for Evidence in the standard adjudication context, though this timeframe may vary depending on the complexity of the inquiry and the specific form involved.[2][3][18] Form G-639 FOIA requests are processed on a first-come, first-served basis and typically require six to twelve months for USCIS to produce a complete response, though expedited processing may be available in certain circumstances such as when a client is in active removal proceedings.[40][51]

The practical implication is that practitioners should not rely on Form G-639 records requests as the sole basis for developing a response strategy if the client faces a near-term USCIS deadline. Instead, Form G-639 should be filed promptly to begin the request process while simultaneously developing a response strategy based on the information already available to the attorney through Form G-28 representation and the specific information disclosed in USCIS's inquiry letter.

Coordinating with State-Level Proceedings When Applicable

In cases where the client also faces or has faced state criminal charges, coordination between Form G-639 requests to USCIS and similar FOIA requests to state and local law enforcement agencies, district attorney offices, and courts becomes necessary. Under California Penal Code § 1473.7, an attorney representing an immigrant client with prior convictions should routinely assess whether the convictions may carry immigration consequences and whether post-conviction relief might be available.[1] This assessment may require obtaining certified records of the conviction, charges, and sentencing from state court through state FOIA procedures or similar record-access mechanisms, which operate in parallel with Form G-639 requests to federal immigration authorities.

A comprehensive post-conviction relief strategy might involve: (1) filing Form G-639 to USCIS to determine what convictions are reflected in the client's A-File and what immigration consequences USCIS has identified; (2) filing California Public Records Act requests to the relevant district attorney office to obtain conviction documents and case files; (3) filing requests to state and local law enforcement agencies to obtain rap sheets and arrest records; and (4) in some cases, filing a state habeas corpus petition or motion to vacate conviction under PC § 1473.7 based on inadequate advisement of immigration consequences or ineffective assistance of counsel. Coordinating these parallel requests and ensuring consistency across federal and state records requires careful timeline management and documentation.

Alternative Strategies and Contingency Planning

Option One: Immediate Form G-28 Filing with Deferred Form G-639 Request

Under this strategy, the attorney files Form G-28 immediately upon learning of the client's investigatory situation, ensuring receipt of all subsequent USCIS communications. The attorney then carefully reviews the specific inquiry from USCIS and assesses whether sufficient information is available in that inquiry letter to develop a response. Only if the attorney determines that critical information is missing from the file does the attorney file a Form G-639 request to obtain the complete A-File. This strategy prioritizes speed and responsiveness while allowing the attorney to make an informed decision about the necessity of a full records request.

The advantages of this approach include: (1) prompt establishment of legal representation protecting the client's interests and ensuring the attorney receives all communications; (2) preservation of attorney time and client resources by avoiding unnecessary Form G-639 requests when the inquiry letter provides sufficient information; (3) reduced paper trail and reduced external indications of investigatory activity. The disadvantages include: (1) potential loss of valuable intelligence about USCIS's knowledge and investigative findings if a Form G-639 request would have provided additional context; (2) risk that by the time a Form G-639 request is filed, USCIS has already made investigative determinations that could have been addressed if known earlier.

Option Two: Concurrent Form G-28 and Form G-639 Filing

Under this strategy, the attorney files both forms simultaneously, combining them through the FIRST platform if the client is requesting records from USCIS. This approach maximizes information access while establishing formal representation immediately.

The advantages include: (1) rapid establishment of representation and full communication channel with USCIS; (2) comprehensive intelligence regarding USCIS's accumulated knowledge about the client; (3) ability to cross-reference RFEs/NOIDs received through Form G-28 representation with the complete A-File received through Form G-639 to develop a comprehensive response strategy. The disadvantages include: (1) increased professional fees associated with submitting two forms and processing two separate requests; (2) extended timeline overall, since the Form G-639 request will take months to process while the attorney is responding to the RFE/NOID on a 87-day timeline; (3) larger paper trail and more visible indication of investigatory response; (4) potential for redundant information if the RFE/NOID already discloses the key information in the A-File.

Option Three: Deferred Representation Strategy with Form G-639-First Approach

This strategy-which carries higher risk-involves filing a Form G-639 request before filing Form G-28, on the theory that obtaining comprehensive file information before establishing representation permits more informed strategic decision-making about whether representation is necessary and what position the attorney should take. This approach is generally not advisable in active investigatory contexts, as it involves a period during which the client is unrepresented while USCIS possesses the file, and it creates a temporal gap during which USCIS could issue new inquiries or decisions that the client would receive directly, potentially leading to misunderstanding or missed deadlines.

This strategy makes sense only in limited circumstances where: (1) the client has become aware of a potential USCIS investigatory interest but has not yet received formal notice; (2) the attorney is seeking to gather preliminary intelligence before advising the client about potential exposure; and (3) the investigation is in a very preliminary stage with no imminent deadlines or required actions. In the context of active inquiries where the client has already received formal notice, this strategy should be rejected in favor of immediate Form G-28 filing.

Contingency Planning for Adverse USCIS Determinations

If despite the attorney's best efforts to respond to USCIS inquiries, USCIS issues a denial or adverse determination, the attorney must immediately assess appellate options. In the context of applications before USCIS, certain adverse determinations can be appealed to the AAO (Administrative Appeals Office) through Form I-290B (Notice of Appeal or Motion), filed within 33 days of the adverse decision.[1][3] Other adverse determinations-particularly those related to fraud or willful misrepresentation-may not be appealable and may instead require either a Motion to Reopen (if new evidence has become available) or acceptance of the adverse determination pending potential future Form I-539 applications for extension or change of status.

If the USCIS determination results in a formal charging of fraud or removal grounds, the client will receive a Notice to Appear (NTA) initiating removal proceedings before an immigration judge. At that point, Form G-28 must be filed again, this time in connection with the removal proceeding (using Form G-28 rather than EOIR-27, unless the case reaches the Board of Immigration Appeals level, at which point EOIR-27 must be used instead).[17][38]

Throughout contingency planning, the attorney must assess whether state-level criminal charges are implicated (in which case PC § 1473.7 post-conviction relief might be available), whether administrative stays of removal or other interim relief might be available, and whether federal court habeas corpus review might be appropriate if removal proceedings are initiated.

Conclusion

Form G-28 and Form G-639, while addressing different aspects of immigration practice, frequently intersect in investigatory contexts. Form G-28 establishes legal representation before DHS agencies and is mandatory whenever an attorney or accredited representative represents a client in any immigration matter, including responses to investigatory inquiries. Form G-639 enables clients to access their own immigration records held by USCIS, providing valuable intelligence about what information the agency has gathered about the client and what concerns have prompted the investigation.

The strategic decision of when and whether to file each form depends on several factors including the nature and stage of the USCIS inquiry, the time-sensitivity of the client's situation, the availability of information through existing Form G-28 representation, and the likelihood that comprehensive file information would inform the attorney's response strategy. In most investigatory contexts, immediate Form G-28 filing is advisable to ensure that the client's attorney receives all subsequent communications from USCIS and can provide competent representation. Form G-639 filing should follow a strategic assessment of whether comprehensive file information is necessary to respond effectively to USCIS's specific inquiry.

Northern California practitioners should remain current regarding local immigration court procedures, San Francisco Asylum Office interview practices, ICE enforcement patterns, and the evolving regulatory landscape governing representation, record access, and investigatory procedures. The paralegal designation removal from Form G-28 effective sometime following September 2025, the reinstatement of neighborhood investigations for naturalization applicants effective August 2025, and the continued development of online filing systems through FIRST all indicate that the procedural and technological landscape surrounding these forms continues to evolve. Practitioners should regularly consult current USCIS guidance, recent case law from the Ninth Circuit and San Francisco immigration court, and AILA practice advisories to remain informed of developments that may affect representation strategies and record access procedures.

References and Sources

[1] Form G-639, Freedom of Information/Privacy Act Request, USCIS, available at <https://www.reginfo.gov/public/do/DownloadDocument?objectID=12449701>

[2] How Does USCIS Investigate VAWA, Serving Immigrants, available at <https://www.servingimmigrants.com/how-does-uscis-investigate-vaawa/>

[3] Form G-28, Explained, Boundless, available at <https://www.boundless.com/immigration-resources/form-g-28-explained>

[4] Form G-639/Freedom of Information Act (FOIA) Request, NIWAP Library, available at <https://niwaplibrary.wcl.american.edu/pubs/g-639>

[5] USCIS Proposes Revisions to Form G-28 to Disallow Paralegal Designation, Immigration Policy Tracking, July 25, 2025, available at <https://immpolicytracking.org/policies/uscis-revises-form-g-28-notice-of-entry-of-appearance-as-attorney-or-accredited-rep>

[6] Instructions for Form G-639, Freedom of Information/Privacy Act Request, Department of Homeland Security, available at <https://www.reginfo.gov/public/do/DownloadDocument?objectID=27288001>

[7] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[8] Form G-639, Freedom of Information/Privacy Act Request, AILA, available at <https://www.aila.org/files/o-files/view-file/E0BB40D9-2035-4484-91A6-534131A2D56F>

[9] Form G-639/Freedom of Information Act (FOIA) Request, NIWAP Library, June 11, 2024, available at <https://niwaplibrary.wcl.american.edu/pubs/g-639>

[10] USCIS Set Up the Inquiry Process So That You Cannot Ask About Your Immigration Case, YouTube, available at <https://www.youtube.com/shorts/HiR7ZqL5HTw>

[11] Instructions for Form G-639, Freedom of Information/Privacy Act Request, Department of Homeland Security, available at <https://www.reginfo.gov/public/do/DownloadDocument?objectID=12449701>

[12] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[13] USCIS Reinstates Neighborhood Investigations for Naturalization Applicants Under INA 335(a), Envoy Global, August 22, 2025, available at <https://www.envoyglobal.com/news-alert/uscis-reinstates-neighborhood-investigations-for-naturalization-applicants-under->

[14] Form G-28 Guide: Legal Representation Explained 2026, Lighthouse, available at <https://www.lighthousehq.com/blog/form-g-28>

[15] 8 CFR Part 1003 -- Executive Office for Immigration Review, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-V/subchapter-A/part-1003>

[16] USCIS Resumes Neighborhood Investigations for Naturalization, Attorney for US Immigration, available at <https://attorneyforusimmigration.com/uscis-resumes-neighborhood-investigations-for-naturalization/>

[17] Instructions for Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, AILA, available at <https://www.aila.org/File/Related/21071232b.pdf>

[18] 8 CFR § 103.2 - Submission and Adjudication of Benefit Requests, Cornell Law School, available at <https://www.law.cornell.edu/cfr/text/8/103.2>

[19] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[20] USCIS Employee Misconduct Reporting Form and Management, Government Attic, available at https://www.governmentattic.org/5docs/USCIS-ManagementInquiryHndbk_2009.pdf

[21] 8 CFR 103.2 -- Submission and Adjudication of Benefit Requests, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-103/subpart-A/section-103.2>

[22] U.S. Employers and Workplace Enforcement Actions: What to Expect and How to Prepare, available at <https://www.gands.com/en-us/2025/01/17/u-s-employers-and-workplace-enforcement-actions-what-to-expect-and-how-to->

[23] Form G-639, Freedom of Information/Privacy Act Request, AILA, available at <https://www.aila.org/files/o-files/view-file/E0BB40D9-2035-4484-91A6-534131A2D56F>

[24] Your Case Is Stuck With USCIS: What Are Your Options?, Clinic Legal, available at <https://www.cliniclegal.org/resources/your-case-stuck-uscis-what-are-your-options>

[25] How to Fill Out USCIS FOIA - THE RIGHT WAY, YouTube, available at https://www.youtube.com/watch?v=s_7zIVyKoZY

[26] Instructions for Form G-639, Freedom of Information/Privacy Act Request, Department of Homeland Security, available at <https://www.reginfo.gov/public/do/DownloadDocument?objectID=12449701>

[27] 8 CFR Part 292 -- Representation and Appearances, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-292>

[28] Comprehensive Guide to Form G-639: Freedom of Information/Privacy Act Request, OpenSphere AI, available at <https://opensphere.ai/immigration-resources/comprehensive-guide-to-form-g-639-freedom-of-information-privacy-act-requ>

[29] What Your Attorney Can & Cannot Do During a USCIS Interview, Kasturi Law, available at <https://www.kasturilaw.com/what-your-attorney-can-and-cannot-do-during-a-uscis-interview/>

[30] Right to Counsel for Asylum Applicants, LAW eCommons, available at <https://lawecommons.luc.edu/cgi/viewcontent.cgi?article=1609&context=pilr>

[31] How To Make a USCIS Case Inquiry, YouTube, available at https://www.youtube.com/watch?v=9__Fd4Z4dJ4

[32] Your Case Is Stuck With USCIS: What Are Your Options?, Clinic Legal, available at <https://www.cliniclegal.org/resources/your-case-stuck-uscis-what-are-your-options>

[33] A National Study of Access to Counsel in Immigration Court, University of Pennsylvania Law School, available at <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9502&context=pennlawreview>

[34] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[35] Form G-28 Guide: Legal Representation Explained 2026, Lighthouse, available at <https://www.lighthousehq.com/blog/form-g-28>

[36] Filing a Form G-28: Complete Guide, Keller Law Group, available at <https://www.kellerimmigration.com/resources/immigration/form-g-28>

[37] FOIA Ombuds Observer, No. 2018-01, National Archives, available at <https://www.archives.gov/ogis/resources/foia-ombuds-observer/2018-01>

[38] Instructions for Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, AILA, available at <https://www.aila.org/File/Related/21071232b.pdf>

[39] Form G-28: Ensuring Legal Representation in Immigration Cases, Law SB, available at <https://www.lawsb.com/form-g-28/>

[40] A Step-By-Step Guide to Completing FOIA Requests with DHS, Immigrant Lawyers Resource Center, available at <https://www.ilrc.org/sites/default/files/resources/astepbystepguidetocompletingfoiarequestswithdhs.pdf>

[41] USCIS Policy Manual Makes Sweeping Changes to Discretion, Immigrant Lawyers Resource Center, available at <https://www.ilrc.org/sites/default/files/resources/sweepingchangesinuscispolicymanualfordiscretion3.19.21.pdf>

[42] Limited Assistance to Noncitizens With USCIS Applications, CLINIC, available at <https://www.cliniclegal.org/file-download/download/public/75357>

[43] FOIA Requests at DHS: Recent Changes to G-639 and Online Filing, Immigrant Lawyers Resource Center, October 2023, available at https://www.ilrc.org/sites/default/files/2023-10/FOIA%20Requests%20at%20DHS_October2023.pdf

[44] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[45] 8 CFR Part 292 -- Representation and Appearances, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-292>

[46] Form G-639, Freedom of Information/Privacy Act Request, AILA, available at <https://www.aila.org/files/o-files/view-file/E0BB40D9-2035-4484-91A6-534131A2D56F>

[47] 8 CFR § 292.1 - Representation of Others, Cornell Law School, available at <https://www.law.cornell.edu/cfr/text/8/292.1>

[48] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[49] Access to Counsel - ICE Production, American Immigration Council, January 2025, available at https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/accesstocounseliceproduction_10-24-2104.pdf

[50] 8 CFR 292.1 -- Representation of Others, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-292/section-292.1>

[51] A Step-By-Step Guide to Completing FOIA Requests with DHS, Immigrant Lawyers Resource Center, available at <https://www.ilrc.org/sites/default/files/resources/astepbystepguidetocompletingfoiarequestswithdhs.pdf>

[52] Filing a Form G-28: Complete Guide, Manifest Law, available at <https://manifestlaw.com/blog/form-g28/>

[53] Investigative Specialist - Jobs at USCIS, USAJobs, available at <https://uscis.usajobs.gov/job/854648200>

[54] Why Is Form G-28 Important in U.S. Immigration Cases?, Emory Wheel, February 2025, available at <https://www.emorywheel.com/article/2025/02/why-is-form-g-28-important-in-u-s-immigration-cases>

[55] USCIS Management Inquiry Handbook, 2015, Government Attic, available at <https://www.governmentattic.org/57docs/USCISmgmtInqHndbk2015.pdf>

[56] Immigration Services Analyst - Jobs at USCIS, USAJobs, available at <https://uscis.usajobs.gov/job/855375900>

[57] Access to Counsel - ICE Production, American Immigration Council, January 2025, available at https://www.americanimmigrationcouncil.org/wp-content/uploads/2025/01/accesstocounseliceproduction_10-24-2104.pdf

[58] 8 CFR Part 292 -- Representation and Appearances, eCFR, available at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-292>

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