



### Can an immigration consultant provide legal representation for a client's immigration matter?

**No.** Only licensed lawyers can provide legal advice. Also, only a licensed lawyer or a person approved by the Bureau of Immigration Appeals' (BIA) Recognition and Accreditation Program can represent a person on immigration matters.

### Can an immigration consultant recommend which form to use or suggest how a client should answer a question on a form?

**No.** State law prohibits an immigration consultant from recommending which form to use. Suggesting how to answer a question is also considered prohibited legal advice.

### Are there requirements for immigration consultant services contracts?

**Yes.** A contract for immigration consultant services must be written in both English and the client's language. Oral contracts are not permitted. The California Department of Consumer Affairs has issued regulations outlining requirements for immigration consultant contracts. (See Cal. Code Regs., Tit. 16, Div. 38, Ch. 3, § 3840). Contracts must include the following:

- A statement that the immigration consultant is not an attorney and cannot perform legal services performed by attorneys.
- A description of the services and purpose of the services to be performed as well as itemized costs for each service.
- A list of the documents to be prepared, an explanation of the purpose and process for each document, and a list of the costs for preparing each document.
- A description of what the immigration consultant will do with respect to each document, and listing the agency and office where each document will be filed and the approximate processing times according to the current published agency guidelines.
- Information about how to report complaints related to immigration consultant services, including the toll-free numbers and website addresses for the Executive Office for Immigration Review of the United States Department of Justice and California State Bar.
- A provision that the client can cancel the contract within 72 hours.

Remember, an immigration consultant must provide a signed receipt on his/her letterhead to a client for each payment made by that client.

### What type of services can an immigration consultant provide?

An immigration consultant can provide only nonlegal services on immigration matters, such as:

- Translating a client's answers to questions on state or federal forms;
- Translating the information on state or federal forms for a client;
- Obtaining copies of supporting documents needed for those forms;
- Submitting completed forms to the United States Citizenship and Immigration Services (USCIS) office, if requested by the client;
- Referring a client to appropriate legal representation.

### What can't be included in an immigration consultant services contract?

A contract for immigration consultant services must not:

- Make any guarantees or promises, unless the guarantee or promise is in writing and the immigration consultant has some basis in fact for making the guarantee or promise.
- Claim that the immigration consultant can or will obtain special favors from or have special influence with the USCIS or any other governmental agency, employee, or official relating to the client's immigration matter.

For more information, visit:

<http://www.sos.ca.gov/business-programs/special-filings/>



### What other information does an immigration consultant have to share with a client?

Before providing services, an immigration consultant must provide the client with a written disclosure of the following information in the native language of the client:

- The immigration consultant's name, address, and telephone number.
- The immigration consultant's agent for service of process.
- The legal name of the employee who consulted with the client, if different from the immigration consultant.
- Evidence of compliance with the applicable bonding requirement, including the bond number.

After providing services:

- An immigration consultant must provide a copy of each document completed on behalf of the client and must include the name and address of the immigration consultant.
- Note that documents must be retained for at least three years after the date of the last service to the client and must be provided to law enforcement agencies without a warrant or subpoena.
- An immigration consultant must promptly return all original documents provided to the immigration consultant in support of the client's application.

Conduct to Avoid:

- Never make representations to your clients that indicate you have special influence with USCIS or another government agency.
- Never take a client's money without delivering any services.
- Never charge money to refer a client to a lawyer, unless you are certified by the California State Bar as a referral service.
- Never require a customer to pay money to get their original documents back.
- Never attempt to get additional money from your clients, such as "back taxes" or other fees not required by the government or your contract with the client.
- Never prepare, file or charge a client for preparing a frivolous application, such as an application for political asylum if the client does not qualify.

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- Referring a client to appropriate legal representation.

### Sanctions:

Please note that violations of state law may subject an immigration consultant to significant civil and criminal penalties, including fines and imprisonment, and attorneys' fees.

### Additional Resources:

The information provided in the attached guidance outlines only some of your responsibilities. You are responsible for ensuring compliance with all legal requirements as specified in Business and Professions Code sections 22440–22449, as well as any other federal and California laws.



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