

# **-For Official Use Only-**

## **CHAP**

Current as of

# **Volume 1 - GENERAL POLICIES AND PROCEDURES**

## **Part E - ADJUDICATIONS**

### **Chapter 11 - Sworn Statements**

A sworn statement is a written declaration given under an oath (or affirmation). The sworn statement becomes part of a permanent, official record and may be used in a subsequent proceeding or prosecution.

A petitioner or applicant may provide, or an officer may request the person to provide, a sworn statement with a petition, application or during an interview in order to provide additional information regarding any requirement or question.

#### **A. General**

Although all statements under oath are considered sworn statements, obtaining a sworn statement from an applicant typically refers to a formal written, witnessed, and signed statement, often completed on a standard template (e.g. Record of Sworn Statement (Fingerprints) and Record of Sworn Statement (Missing PRC)). Officers may also take formal sworn statements to document admissions of fraud or ineligibility. Less frequently, officers take formal sworn statements to document false testimony.

Because formal sworn statements can be vital evidence in adjudications, appeals, subsequent filings, removal proceedings, or even criminal prosecutions, officers must take a systematic approach to them in order to adequately cover all relevant issues. Further, any breaks taken during the interview (restroom, water, etc.) should be noted in the record.

If the applicant or petitioner requests a copy of his or her sworn statement taken during the course of the interview, the officer is to provide a copy to the requesting party.

#### **B. Format**

If officers are using USCIS systems (such CLAIMS 4) that have a built-in sworn statement forms, officers should use that form and layout.

If no such form is available, the officer should follow his or her local policy and procedures.

Formal sworn statements can be in either question-and-answer (QA or Q&A) format or narrative format.

#### *Question-and-Answer Format:*

- Most common format for a sworn statement.
- Gives officers a great deal of control over the flow and structure of the statement. In this format, the officer asks questions and the applicant provides answers.
- Is focused on issues relevant to adjudication, (or public safety, or national security).
- Is structured to flow logically, using a clear progression that addresses the classic *Who? What? Where? When? Why? and How?* Questions. Sworn statements should not jump back and forth on a timeline or from topic to topic. Use follow-up questions to fully develop each key point before moving on to the next.
- Captures the applicant's exact words.
- Concludes with an opportunity for the applicant to add information that they think the officer should know. Examples of final questions include:
  - "Do you have anything else that you would like to say?"
  - "Do you want to add anything to this statement?"
  - "Is there anything else that you think I should know that I haven't asked you about?"
- Occasionally, Q&A will resume when a final statement will raise critical new issues, giving rise to another Q&A round. When the new round of Q&A concludes, the final question should give the applicant the opportunity to give a final statement.

#### *Narrative Format:*

- Less common format for a sworn statement.
- Not the best format for a formal sworn statement because its lack of structure allows applicants to stray into irrelevant topics and/or avoid relevant issues.
- Is a story that applicants tell to support a claim or explain a fact.
- Is usually written by applicants themselves.
- Can become quite lengthy, especially if written or dictated in foreign languages, due to the need for translation reviewing or witnessing the statement.

### **C. Best Practices**

- Officers must review the entire formal written statement with the applicant.
- Applicants must be allowed to make corrections or clarifications to the written statement.
- Applicants must initial any corrections or clarifications and sign and date each page.
- If officers are not satisfied that the applicant understands and reads English, an interpreter must be used.
  - If an interpreter is used, attach a signed statement from the interpreter. See the “Use of Interpreters at Domestic Field Office Interviews” section of this chapter for more information.
  - Statements should state that the interpreter read the sworn statement to the applicant in his or her own language and that the applicant, before signing, stated he or she understood the contents of the statement.
- Whenever possible, another officer should witness the applicant’s signature on the sworn statement.
  - The witnessing officer should verify the applicant’s identity and confirm that the applicant signs the statement voluntarily.
  - This practice guards against claims of official deceit or coercion.

**Note:** Electronically recording the interview is the best defense against such claims. See the chapter on Interview Recording Using Webcams for more information.
- Witnesses should be in a position to testify, if necessary, that the applicant:
  - Reviewed the entire statement with the officer,
  - Consented to and knew of any changes made and initialed each change,
  - Appeared to understand the contents of the statement
  - Appeared to know what he or she was doing, and
  - Acted voluntarily and acknowledged the statement to be true and correct.
- If applicants cannot sign their name,
  - They may sign by a mark.
  - Two individuals should witness the mark, if at all possible.
  - The interviewing officer or other witness should write the applicant's given name before the mark, the applicant’s surname after the mark. The word "his" or "her" should be placed over the mark and the word "mark" below.
- Officers should cross through any remaining blank space at the end of the sworn statement. The applicant should initial at the bottom of that last page.

# Updates