



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

Director

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

June 6, 2011

American Immigration Lawyers Association
Attention: Crystal Williams
Suite 300
1331 G St., NW
Washington, DC 20005-3142

Dear Ms. Williams:

Thank you for your April 6, 2011, letter on behalf of the American Immigration Lawyers Association (AILA) and other concerned organizations regarding the application of the Defense of Marriage Act (DOMA) in immigration proceedings. Please feel free to forward this response to all the signatories to your letter. We appreciate your interest in this matter.

As you know, on February 23, 2011, the Attorney General informed Congressional leadership that the Department of Justice will no longer defend challenges to the constitutionality of Section 3 of DOMA. In addition, all Executive Branch agencies have been instructed by the President to continue to enforce DOMA until the law is repealed or the judicial branch renders a definitive determination regarding the law's constitutionality. Accordingly, until DOMA is repealed or struck down, the Executive Office for Immigration Review (EOIR) will continue to apply DOMA as interpreted in the immigration context.

Given the President's instruction to the Executive Branch to continue to enforce DOMA until the law is repealed by Congress or the judicial branch renders a definitive verdict on the law's constitutionality,¹ the practice of EOIR has remained the same. Consistent with our practice predating the President's instruction, EOIR continues, where appropriate, to exercise discretion in individual cases based on the unique factors presented by that particular case. However, also consistent with our previous practice, EOIR does not exercise discretion to grant any form of relief to the entire category of cases affected by DOMA.

¹ Please note that the Attorney General recently vacated and remanded a case entitled *Matter of Dorman* to the Board of Immigration Appeals (Board), and instructed the Board to make specific findings with regard to the respondent's eligibility for cancellation of removal in light of whether and how the constitutionality of DOMA is presented in the case. *Matter of Dorman*, 25 I&N Dec. 485 (A.G. 2011).

Crystal Williams
American Immigration Lawyers Association
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Thank you again for your letter. We look forward to continuing to work with you on such important issues. If you need additional assistance, please do not hesitate to contact me or EOIR General Counsel Robin M. Stutman.

Sincerely,

A handwritten signature in black ink, appearing to read "Juan P. Osuna". The signature is fluid and cursive, with a large initial "J" and "O".

Juan P. Osuna
Director