

June 13, 2007

Ms. Jane Arellano, District Director  
 US Citizenship and Immigration Services (USCIS)  
 300 N. Los Angeles Street  
 Los Angeles, CA 90012

Dear Ms. Arellano:

The following items have been proposed by members of the American Immigration Lawyers Association, Los Angeles County Bar Association-Immigration Section, Mexican American Bar Association, San Fernando Bar Association, Century City Bar Association and Cuban American Bar Association for discussion with you at our June 28, 2007 meeting:

### ADJUSTMENT OF STATUS

1. During an adjustment of status interview for an employment-based case, AOs are asked why the beneficiary and the derivative beneficiaries did not have children. We believe this is a training issue. Please address this issue.

USCIS Response (S. Alegria): The applicant/attorney of record is encouraged to bring to our attention individual concerns of apparent impropriety at the time of their occurrence. In the above described situation, if a derivative is adjusting on the basis of his/her relationship to the principal, the interviewing officer would then focus on the bonafides of the marriage. This line of questioning may include whether or not there have been any children born to the marriage. We will ensure that this question is asked in the appropriate manner by providing training.

2. What documents are accepted to prove ability to execute an affidavit of support when the petitioner or affiant is self employed? Is it still CIS practice to accept a letter from a self-employed CPA on their letterhead attesting to the petitioner's income? Please state CIS current policy and procedure.

USCIS Response (R. Pignatelli): Regulations at 8 CFR 213a.2(c)(2)(ii)(C) define how income is determined to be sufficient:

"The sponsor's household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status shall be given the greatest evidentiary weight; any tax return and other information relating to the sponsor's financial history will serve as evidence tending to show whether the sponsor is likely to be able to maintain his or her income in the future. If the projected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status meets the applicable income threshold, the affidavit of support may be held to be insufficient on the basis of the household income but only if, on the basis of specific facts, including a material change in employment or income history of the sponsor, substitute sponsor, joint sponsor or household member, the number of aliens included in Forms I-864 that the sponsor has signed but that have not yet entered into force in accordance with paragraph (e) of this section, or other relevant facts, it is reasonable to infer that the sponsor will not be able to maintain his or her household income at a level sufficient to meet his or her support obligations."

In short, employment history and pay stubs may carry more weight than the previous year's tax return as it is more recent. However, if the totality of the sponsor's circumstances leads the adjudicator to believe that an adequate level of income will not be maintained, the affidavit may still be determined to be insufficient. This evaluation must be based upon specific and relevant facts.

If the sponsor is the owner of a business or self employed, licenses, business bank accounts showing consistent deposits, a profit and loss statement by a CPA, tax returns, etc. should be sufficient to determine the petitioner's (sponsor's) income threshold. Since circumstances vary in each case, each case will be evaluated using the criteria above.

NBC "improperly rejected filings" or "unnecessary requests for evidence" can be brought to Room 8010 for resolution. It is requested the applicant/attorney of record submit a supervisory inquiry describing the issue and include any evidence supporting the allegation. CIS will communicate the problem to the NBC and take steps to resolve it.

#### (i) Room 2050

3. CIS has been issuing I-130 decisions and interview appointments without informing the attorney of records on several occasions. Separate G-28s were filed with room 2050 when inquiries were made there by the attorneys and indicating they are now the attorneys of record. Does CIS interfile these G-28s to reflect representation? How can we be assured that G-28 information is recorded?

USCIS Response (M. Nguyen): All mail in Room 2050 is interfiled within a few days of receipt. Please be aware, however, that since I-130 visa petitions are filed by petitioners, the attorney must represent the petitioner and submit a Form G-28 signed by the petitioner. In the past, Room 2050 has received many inquiries, MTRs and even appeals from attorneys where the G-28s are signed only by the beneficiaries. In those cases, we cannot notify the attorneys of any interviews, reschedules, case status, or final decisions in the case. If you have a case where you have submitted a G-28 signed by the petitioner, you may send Supervisor Marty Handman a fax at (213) 830-5103. You may also submit a G-28 via Infopass.

#### Advance Parole

4. What are the policies and procedures in requesting an "expedite" for an advance parole that has been filed at one of the various Service Centers but has not been processed? It used to be that we could submit the proof of the reasons for expedites to Room 8558 along with the receipt of filing and if the reasons are accepted, an advance paroles would issue. Now it is different. What is the processing time, documentation requirements and current procedures? It seems to matter which Service Center the Advance Parole was filed and seems to matter what the underlying adjustment of status petition is, i.e. employment or family-based.

USCIS Response (R. Pignatelli): Requests for expeditious handling of an I-131 are reviewed by an Adjudication Officer (AO) in room 8559. If the request has merit, the AO will contact the Service Center having jurisdiction over the adjudication of the I-131 via email, and inform them of the request. Cooperation between the Los Angeles Field Office and the Service Centers has proven to be excellent. A fax of the expedite request is sent to the Service Center. If the Los Angeles Field Office determines that the request for expeditious handling meets the established criteria and the Service Center is unable to process the request expeditiously, the Los Angeles Field Office will adjudicate the I-131 and issue the I-512

locally. A copy of the I-512 and approved application is forward to the Service "A" file. The Service Center is notified via email of the action taken by the Los Angeles Field Office. That service center will make appropriate systems updates.

Employment-based cases are handled by Nebraska. Applicants requesting expeditious handling of and I-131 located at the Nebraska Service Center are given a fax number they can use to submit their request for expedite. The Nebraska Service Center fax number is (402) 219-6171.

### Citizenship

5. During our previous CIS meeting, AILA was advised that CIS is adhering to 180 days to respond to all appeals filed with CIS after a NATZ denial; yet attorneys report cases that are pending without any resolution or appointment way beyond 180 days. How can we inquire on these cases to get a realistic date other than being told to wait? In addition, when these cases were finally scheduled and heard, final decisions are not rendered within a reasonable time frame as they can be pending for an additional 6 months . Please advice reasons for such delays which are contrary to INA.

USCIS Response (W. Prater): We have less than 20 cases that have been pending over 180 days. These cases are being monitored and will be scheduled as soon as they are "interview ready". A portion of these cases are T files awaiting the Service "A" file; once the "A" file is received, they will be scheduled for interview. The remainder of these cases are still pending background checks. The status of these cases can be obtained via Infopass appointment; however, if the case is not resolved you may contact Mr. Wade Prater. The San Bernardino and Santa Ana Field Offices are now processing their own Appeals.

#### (i) Santa Ana Field Office

6. In the Santa Ana Office, during NATZ interviews seems to have become more adversarial recently where raised officers' voices could even be heard. Observers report over 60% of applicants leave with a paper in hand to either return or await a result pending further review. Please advise whether there are any changes in processing and or procedures within the last 2 or 3 months?

There have been no changes to processing and procedures in the naturalization units in the Santa Ana Field Office in the last 2 or 3 months. The question cites observations which appear to be very much anecdotal. Our production statistics reflect a much lower continued rate than 60%, but it is possible that on certain days the continued rate would be higher. If you encounter instances where you feel an Adjudications Officer is acting inappropriately, bring the matter to the attention of a Supervisory Adjudications Officer immediately.

### MISCELLANEOUS

7. Are law students or law graduates allowed to inquire on behalf of applicants at INFOPASS appointments? What if these persons work as paralegals for lawyers? If not, how does 8 CFR 1292.1(a)(2) play into your decision?

USCIS Response (D. Douglas): Regulations at 8 CFR 1292.1(a)(2) indicate that law students and law graduates are permitted to represent a person in adjudication proceedings. However, 8 CFR 1292.1(a)(2)(iv) states that the law student's or law graduate's appearance must be permitted by the official before whom he or she wishes to appear. This decision has been delegated to the Field Office Directors (FOD) by the District Director of District 23. In each of the three field offices, the FOD has determined that individuals described in 8 CFR 1292.1(a)(2) will not be authorized to represent applicants and petitioners during INFOPASS appointments nor interviews for immigration benefits.

8. Although this question was asked and answered, attorneys complain that on the 6th Floor, the cashier requests to see a Bar Card when an attorney is scheduling a fingerprint appointment for a client in removal proceedings. There are States that do not issue Bar cards like the State of New York. How can these out of state attorneys carry out their work for their clients on the 6<sup>th</sup> floor? Could a driver's license and business card be considered sufficient?

USCIS Response (D. Douglas): The purpose of the cashier requesting to see the filing attorney's bar card is to confirm the identity of the person filing the application/petition, and to also help confirm that the attorney is authorized to sign on a check issued by the practice or firm. While the bar card is not an infallible piece of identification, the policy is to see that document in order to help protect the applicant and USCIS. In the event an attorney does not have a bar card, the cashier may ask to see a driver's license or other proof of identity. Of course, a G-28 should always be present with any filing involving a represented applicant or petitioner.

9. AILA members report that a notice is being issued for Petitioner and Beneficiary to appear for interview at LADO on a pending I 129R visa application filed at CSC. Please describe what this new "I 129R Compliance Review" interview will entail, under whose jurisdiction it will be conducted and will the interview be conducted by LA 245 unit AOs or members of FDNS and what categories of applicants (Ministers, Religious Workers) will be getting these notices.

USCIS Response (D. Douglas): As mentioned in the Proposed Rule on special immigrant and non-immigrant religious workers published on April 25, 2007, USCIS has encountered a large amount of fraud in connection with these kinds of applications and petitions. It has been determined that field offices will assist the Service Centers in collecting additional information and evidence in connection with these cases. Not every case will be interviewed, and not every case will involve a site visit to the petitioner's facility, but many cases will feature both those events. Interviews will be conducted by FDNS personnel; but Service Centers will retain adjudicative jurisdiction.

USCIS may conduct post-audit interviews, so these appointments should not be cancelled if adjudication has already occurred. If the petition has been withdrawn, the interview should not be required. Please notify USCIS if this is the situation.

**UPDATE ON STAFFING AND POLICY CHANGES AND  
CURRENT PROCESSING TIMES:**

- a) Have there been any staffing changes?

- 1) Mary Esther Johnson's position will be filled;
  - 2) Rosemary Bell passed away on Friday, June 8, 2007. Shonna Wilson will be acting until the position is filled;
  - 3) The Status Verification Manager position was filled by Maureen Rust effective July 2, 2007. This position is now under Head Quarters Verification Division supervised by Greg Smith.
- b) Have there been any policy changes?
1. Immigrants filing "Stand Alone" I-212s can fee-in their application at the Los Angeles Field Office. The filings are to be done via Infopass, unless regulations require filing at the consulate. These applications will be adjudicated in Room 2050.
  2. Effective July 2007, Team B in Room 8010 will be converted to Naturalization. Expedite Requests and NBC improperly rejected filings will be done by SAO Sylvia Wilson's team.
  3. Reschedule Requests Process – Final policy is still pending.
- c) For adjustment of status applications for interviews at the Los Angeles Field Office:
- USCIS Response (S. Alegria): The Los Angeles Field Office is currently interviewing cases filed at the NBC within the last 6 months. Cases received at the filed office are manually scheduled within 60 days of receipt.
- 1) What are the current processing times for I-130:  
  
USCIS Response (M. Nguyen): We are currently processing I-130 petitions filed in February 2007.
- d) For adjustment of status applications pending in Santa Ana:
- 1) What are the current processing times for:  
  
I-130 – Within 30 to 60 day of receipt
- e) For adjustment of status applications pending in San Bernardino:
- 1) What are the current processing times for:  
  
I-130 – Current  
  
I-140 (transferred cases) – 60 days of receipt  
  
For Naturalization applicants:  
  
1) What is the current processing time between the date of filing and the preliminary interview? 4 to 6 months

2) What is the current processing time between the date of passing the preliminary interview and the Naturalization ceremony? 30 to 60 days. Is same-day scheduling of approved N 400 cases still happening and will it continue? Yes.

For LIFE cases:

- 1) How many interviews have occurred? 13,835
- 2) Second interviews? 1,798
- 3) How many have been approved? 7,145
- 4) How much notice is being given? 3 weeks

Total Receipts? 12,556  
 How many have been denied? 3,901  
 Currently interviewing? Preliminary cases and Unable to understand English (UUE) rescheduled requests  
 Scheduling Date? July 16, 2007

For LEGALIZATION / I-687s / CSS / Newman (both floors) cases:

- 1) How many interviews have occurred? 7,191
- 2) Second interviews? 851
- 3) How many have been approved? 435
- 4) How much notice is being given? 30 days on preliminary interviews

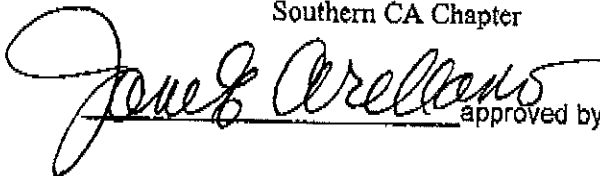
How many have been denied? 7,696  
 Scheduling Date? July 16, 2007

f) Regarding CSS/NEWMAN cases, how many cases are on appeal? How many cases have been granted temporary residency by the Appeals Unit?

USCIS Response (D. Perry): According to the Administrative Appeals Office, there are 62 cases from Los Angeles pending there. The first appeals on CSS/Newman cases arrived at the AAO in May 2006. No decisions have been finalized by the AAO on any of the CSS/Newman cases.

Thank you.

Faith Nouri  
 AILA Treasurer  
 Southern CA Chapter



approved by District Director, Jane E. Arellano District No. 23