

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

July 25, 2007

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 July 25, 2007 meeting:

ADJUSTMENT OF STATUS

1. Members are concerned that their African clients married to U.S. Citizens AOS are held in abeyance in the I-130 unit due to unspecified "suspicion". Many of these cases have been pending for well over one year. Please state your policy and the status of such cases?

USCIS Response (M. Nguyen): The I-130 Unit does not differentiate by specific countries when adjudicating a case. This decision is made on a case by case basis using a variety of relevant factors. Our policy is to conduct an interview and make a determination based on the merits of each case.

2. What is the Field Office's policy to re-set cases pending receipt of additional documents after an interview? How long is a reasonable wait time for a case to be re-assigned to another officer when the officer handling a case has been re-assigned after the interview?

USCIS Response (S. Alegria): Upon completion of the interview, applications that cannot be completed as a result of pending name checks, additional evidence, etc., are housed in the file room and are segregated according to the reason for which the case was continued. These cases are monitored daily to ensure prompt resolution. When a case is identified as being "ready for officer review", the case is placed on a designated shelf from which supervisors pull every morning and distribute to their officers. Every effort is made to return each file to the original interviewing officer; however, it is not unusual for supervisors to distribute files to officers irrespective of who the interviewing officer was in order to ensure that "no file is left behind." The waiting period to inquire on a case is marked on the continued sheet given at the conclusion of the interview. CIS cannot guarantee that the case will be returned to the same officer or team from where the case originated. However, you can inquire within 30 days of submitting the RFE response.

3. ICE now seems to be promptly forwarding to the USCIS Field Office the A-files of adjustment of status applicants whose immigration court proceedings have been terminated to permit USCIS to complete adjudication of the applicant's pending I-485. However, there appears to be more of a problem in routing cases for scheduling the adjustment interview for

arriving aliens whose immigration court proceedings have only been administratively closed, in light of our previous approved minutes. In such cases, how should we bring to USCIS's attention that the arriving alien applicant is still awaiting scheduling by USCIS for an adjustment of status interview?

USCIS Response (R. Pignatelli): The process for administrative closures by the Immigration Judge of arriving aliens in exclusion procedures is the same as the process for terminations. If you have a specific case, please provide Robin Pignatelli the details, and she will research the problem and take appropriate actions.

4. For adjustment of status cases where the I-485 was originally filed with the Immigration Court (after a copy of the I-485 with a check for the filing and biometrics fees was sent to the USCIS Texas Service Center for receipting), if the I-485 is subsequently granted by USCIS after the Immigration Judge terminates the immigration court proceedings, to which service center is the case then sent for LPR card production? Is the LPR card produced automatically on the basis of the biometrics captured at the ASC appointment scheduled during the pendency of the immigration court proceedings, or is the LPR card produced manually on the basis of an I-89 completed at the time of the adjustment of status interview with USCIS? In such cases, is the local office or the service center responsible for updating CLAIMS and CIS to show that the I-485 has been granted? Finally, at what point can the individual contact ICE for return of A-file to ICE DRO to cancel the immigration bond and/or close the case in DACS (to prevent problems during international travel) without creating any delays in issuing or production of an LPR card?

USCIS Response (R. Pignatelli): Normally, when all required action is completed, the system is updated by the field office and the permanent resident card is produced by a service center. If you are aware of a specific case, where the card was not generated, please make an INFOPASS appointment. Please contact ICE DRO regarding the cancellation of the immigration bond.

5. For I-485's that were filed locally with the Field Office before the change to direct mail filing, where is the physical A-file stored if a case is being held in abeyance because of visa retrogression or for additional guidance on processing concurrently filed I-212's? In the latter category of cases, the NBC is not renewing the applicant's EAD if the A-file is housed at the NBC. (Instead the NBC is forwarding the I-765 to the jurisdiction where the prior immigration court proceedings were conducted.) Therefore, to avoid confusion about the continued pendency with the District of un-adjudicated I-485's, is it possible for our local Field Office to store these cases locally? If that is not possible, could the Field Office facilitate or liaison with the NBC with respect to our local issue and revert back to us at our next meeting?

USCIS Response (D. Douglas): Alien files containing adjustment of status applications filed prior to the advent of direct mail to the Chicago Lockbox are stored at local field offices. There are several specific shelving locations, referred to as "responsible party codes" that are assigned to categories such as those specifically mentioned in the question. It is standard procedure for the NBC to refer I-765 cases where the A-file is housed in the field to the local office for a determination on whether the I-485 is still pending. It is our experience that this process is working very well. The field office communicates with the NBC daily on various issues, so that case processing issues are rapidly resolved. The field as a group also communicates with the NBC through a conference call hosted by the

Western Region. Often, systemic problems can be identified this way if more than one office cites similar concerns.

6. Why does the Chicago lookbox assign a new 8 digit A-number when receiving the I-485 of an adjustment of status applicant who is maintaining lawful V-Visa nonimmigrant status, despite the applicant properly listing on the I-485 his/her 9 digit A-number as listed on the applicant's V-Visa EAD? As a result, these I-485's are frequently continued at or after the adjustment of status interview while the local office has to first request and review the applicant's V-Visa A-file. Why can't such I-485's be receipted and adjudicated under the applicant's original V-Visa A-number? If for whatever reason this is not possible, can the applicant or the applicant's attorney notify the local office, in advance, of the existence of the applicant's prior V-Visa A-file once the I-485 interview has been scheduled to pre-empt future delays and problems as stated above?

USCIS Response (S. Alegria): When the applicant provides an A-number that fits the normal A-number pattern as located on page 1 of the I-485, the Lookbox will assign that A-number to the case, and the number will appear on the I-485 receipt notice. If no A-number is provided, or the A-number provided does not meet system logic for a typical A-number (i.e. The A-number only has 4 digits), the Lookbox will assign a new A-number to the applicant.

Once the case reaches the NBC, the office conducts additional system searches to determine if the A-number provided belongs to the applicant, and if there are any other relating Service files. If another Service file is located, the NBC will order the file and consolidate them. In short, the NBC verifies the A-number provided on the application and consolidates all relating files prior to sending the I-485 application and the A-file to Field Offices.

Exception: Offices participating in the 90 day program, where the files are shipped to the field offices within 90 days of the applicant filing the I-485 also undergo the various systems to verify the applicant's identity and locate relating Service files. However, relating Service files in other FCOs are not requested to NBC and consolidated by the NBC prior to shipment. Instead, these files are ordered by the NBC to be sent to the field office where the interview is to be conducted. The local field office consolidates these files once they are received.

MISCELLANEOUS

7. Please discuss the Field Office's position on the ability of a Beneficiary of a family-based petition to submit a second or subsequent I-601 waiver. Oftentimes, an applicant does not have proper legal representation and submits an I-601 application without proper supporting documents and/or arguments detailing the extreme hardship that the qualifying relative would endure if a waiver is not granted. As well, there may be a change in circumstances that arises after the denial of the first waiver application that affects the extreme hardship to the qualifying relative.

Recently, the L.A. Field Office has rejected a second I-601 on the basis that a prior I-601 had been previously denied. Nothing in the regulations precludes the filing of a subsequent I-601 waiver. As well, procedures are established at various Embassies specifically detailing

procedures for filing a subsequent I-601 waiver. Please provide the legal authority for rejecting a subsequent I-601 waiver, or confirm that the Field Offices will be accepting them.

USCIS Response (D. Douglas): When an I-601 is denied, the corresponding I-485 is held in abeyance for 30 days to allow for an appeal to that action. If an appeal is filed, it can often be treated as a motion by the adjudications officer if it contains new evidence. Otherwise, the appeal is forwarded on to the AAO; and the adjustment is similarly held in abeyance. If this process results in a denial of the appeal, the adjustment of status application is similarly denied as the alien is determined to be inadmissible. Regulations at 8 CFR 212.7(a)(1)(ii) state:

(ii) Adjustment of status applicant. An applicant for adjustment of status who is excludable and seeks a waiver under section 212(h) or (i) of the Act shall file an application on Form I-601 with the director or immigration judge *considering the application for adjustment of status.*
(*emphasis added*)

Therefore, it is our interpretation that if the adjustment of status application is no longer pending, the I-601 is not properly filed with the field office.

8. Is there any way we can have a fingerprint notice generated in the situation where a previous fingerprint notice was never received by the applicant? We understand there is a policy change barring staff from issuing any fingerprint notice in all situations. What are the exceptions?

USCIS Response (M. Nguyen): We normally request the appointment from a web-based system known as the SNAP scheduler. The fingerprint appointment notices are mailed out to the applicant. We verbally give the date, time and location of the appointment; however, the notice must be presented at the ASC. On a case-by-case basis, field offices may still issue a G-56 notice for a same day referral.

9. What is the current processing time on the I-130 appeals filed with Room 2050? What is the best procedure to check on the progress of an appeal filed with Room 2050?

USCIS Response (M. Nguyen): When an I-130 denial is appealed, the officer must create a Record of Proceeding, which is generally done within two weeks of receipt of the appeal. The Record is then forwarded to the Office of the Assistant Area Counsel for the preparation of a brief. The process may take several months.

10. Could we obtain an updated phone list which includes all USCIS Field Offices? The most recent one we have is from 2003.

USCIS Response (D. Douglas): USCIS has the National Customer Service Center (NCSC) and the Service Request Management Tool (SRMT) in order to create, track, and process requests from applicants and attorneys nationwide. For this reason, individual offices have de-emphasized the publication of local contact numbers. By calling the NCSC at 800-375-5283, the caller will generate an SRMT ticket that is then routed electronically to the correct field office. The importance of working SRMT referrals has been emphasized with all District Directors and Field Office Directors. These efforts, combined with the availability of INPOPASS scheduled information appointments is proving to be very effective in our efforts

to serve the public. A list of local managers and supervisors numbers will be made available in the near future for other matters of importance once rotations have been completed. In the meantime, you may call the District Director's office at 213-830-5400 for a referral.

11. Will the Los Angeles District Office be able to process requests for expeditious handling for advance paroles for applicants who filed their I-485s applications with the Service Center based on the July 2007 visa bulletin but have not been issued a receipt?

USCIS Response (D. Douglas): We will carry this question over to the next meeting.

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

- a) Have there been any staffing changes?

USCIS Response (S. Alegria): James Lloyd selected to participate in the restructuring of the Basic Adjudications Officer Training. Sylvia Wilson will supervise team A, and Gloria Ramirez will supervise teams C and D.

- b) Have there been any policy changes? None

- c) For adjustment of status applications for interviews at the Los Angeles District Office:

- 1) What are the current processing times for: Within 6 months of filing.
- 2) I-130 - Current

- d) Adjustment of status applications pending in Santa Ana:

- 1) What are the current processing times for: Within 6 months of filing.

- 2) I-130 - Currently processing Judge cases from May 2007

- e) For adjustment of status applications pending in San Bernardino:

- 1) What are the current processing times for:

I-130 - San Bernardino does not receive I-130s.

I-140 (transferred cases) - San Bernardino does not receive transferred I-140s

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, unless the next ceremony has been closed or there are staffing limitations.

For LIFE cases:

- 1) How many interviews have occurred? 13,856
- 2) Second interviews? 1,808
- 3) How many have been approved? 7,176
- 4) How much notice is being given? 4 weeks

Total Receipts? 12,556

How many have been denied? 3,936

Currently interviewing? Preliminary cases and Unable to understand English (UUE) rescheduled requests

Scheduling Date? August 22, 2007

For LEGALIZATION cases:

- 1) How many interviews have occurred? 7,191
- 2) Second interviews? 851
- 3) How many have been approved? 485
- 4) How much notice is being given? 30 days (Prelim)

How many have been denied? 7,908

Scheduling Date? August 21, 2007

Thank you.

Faith Nouri
AILA Treasurer
Southern CA Chapter

These minutes are approved.


Jane E. Arellano District Director, District No. 23