

October 5, 2005

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

Dear Directors:

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 October 20, 2005 meeting:

ADJUSTMENT OF STATUS/IMMIGRANT PETITIONS

1. There have been inconsistencies in the issuance of passport stamps as proof of LPR status after an AOS interviews at LADO. Please advise what is the exact policy and procedure (for District and sub offices) when EAD's and AP's are taken at time of interview.

Please also advise concerning the following:

- (a) Can something in writing confirming the grant of permanent residence (understanding it is not for travel or work authorization purposes) be given;
- (b) Alien needs to show proof of authorization to work;
- (c) Alien needs to travel immediately or almost immediately;
- (d) Allocate next day INOPASS appointments for those who do not get the cards within a specified number of days.

Jane Arellano: LADO will be preparing and handing out a letter indicating that case approved and to await residency card. Letter is in draft stages. Will address other issues in this case with update on draft letter at next meeting.

2. APS and biometrics:

- (a) The Applicant Support Centers are turning away adjustment of status applicants who filed their I-485 applications with the Chicago Lockbox on or after April 1, 2005 during the first few months after centralized direct mail filing went into effect and who self-scheduled ASC appointments with the USCIS National Customer Service Center following the instructions on their filing receipts. The ASC's are telling these applicants that they must now wait for separate ASC appointments to be mailed to them from the National Benefits Center. However, the USCIS National Customer Service Center reports that such ASC appointment notices are only being sent to adjustment of status applicants whose I-485 applications were filed more recently and where filing receipts indicate that separate ASC appointment notices would be mailed. In addition, NBC is not scheduling these cases for interview appointments since the I-485 biometrics are not done and these cases are then not interview ready.

Jane Arellano: This problem addresses the first cases scheduled after the April 1, 2005 lockbox filings initiated. That is no longer a problem since new SNAP system is scheduling rather than applicant. Individuals who cannot schedule with NBC, with proof of filing and former letter indicating their need to make an ASC appointment and can show up to any ASC and they should be processed after all scheduled appointments have been processed. Can also request an infopass with receipt and notices and information officer will schedule ASC appointment.

- (b) Applications filed under the LIFE act (such as I-765 LIFE Legalization EAD renewal applications), which require applicants to self-schedule ASC appointments are also being turned away from the Applicant Support Centers after the USCIS National Customer Service Center schedule these appointments and NCS Center reports that there has been no change.

Dennis Perry: Nobody is being turned away at ASC. Appointments take priority then walk-ins. Individuals who were found not have a pending LIFE Legalization were turned away.

Jane Arellano: Will get back to us regarding a formal policy.

Please advise what the cut off date is for this change in procedure? Please also advise what are the current

procedures for obtaining ASC appointments for both earlier and later filed applications? Please confirm an alien can still request an interim EAD 91 days after the I-765 was properly filed and no appointment for I 765 biometrics is received for the later filed I 765s?

Jane Arellano: No benefits are given before biometrics are captures. The capture of biometrics sets of 90 days for I-765 benefit. As for ASC policies, we will get back to you.

3. Please confirm adjustment of status for minors under the age of 14 do not have to pay the \$70 fingerprinting/biometrics fee. If this is correct, are they being scheduled for ASC appointments for ADIT processing? If an appointment is not received, how can we ask for one?

Jane Arellano: Do not do 10-prints on minors but do biometrics. Biometric fee is \$70.00. Need to address getting ASC scheduled to capture biometrics.

NATURALIZATION

4. (a) How can attorneys inquire on N-600K application filed with 6th Floor and the Naturalization Unit? Since an A# was not generated, many times the unit cannot locate the filing and duplicate applications have to be generated.

Wade Prater: Inquire at attorney window at Room 6024. If filed and no A#, the explanation is that we have not completed the assigned bundle of filings. However, we are now processing filings on a "weekly" basis, the A# should be assigned a lot faster now. Any questions call me at (213) 830-5210 or fax at (213) 830-5206.

(b) How do we request expedite processing of these cases?

Wade Prater: Address all expedited request to Attn: Wade Prater.

5. What is the inquiry procedure to inquire with the El Monte office regarding pending N-400's after an interview when:

- (a) no other documents were requested;
- (b) when asked for documents were submitted;
- (c) when inquiries go unheeded.

Jane Arellano: No walk-in inquiries in El Monte. Dave Douglas is working on an inquiry system. Will carry this question over to next meeting.

6. For the last few months has there been a minimum two to three hours (or longer) wait at El Monte for interviews. We also note that clients are no longer called by the officer indicated on the appointment notice. One used to be able to rely on getting in and out of the El Monte office within a reasonable time. What happened

and will the situation be cured soon? (However, the same day issuance of appointments for swearing in ceremony is great.)

Jane Arellano: Appointments are taking longer because of officers that were detailed out of the Unit. Instead of “de-scheduling” appointments, El Monte decided to spread appointments out to other officers with own workload and noticed interviews. Another problem is the appearance of “translators” in multiple cases that have slowed down adjudication.

MISCELLANEOUS

7. (a) Permanent Resident renewed her alien registration card through the I-90 process but was not asked to surrender her expired card. Upon her admission after a short trip abroad, the CBP officer at the LA airport sent her to secondary inspection for not returning her old expired green card. Where and what is the address or procedure for returning the expired card?

Jane Arellano: DHS is supposed to have any “expired” card returned. This will be a carry over questions in order to give a uniform District policy.

(b)Permanent resident turned in the card when the I-751 was granted at the updating INFOPASS appointment to get the new IR0 card. Upon entry from a trip, CPB officer questioned the resident for not returning her card even though she had. She was kept for 3 hours. Where can we check to ensure the record is correct?

Jane Arellano: This question will be address at next meeting.

8. At InfoPass appointments, IIO's are reluctant to assist applicants whose A-files are located at other offices and instead usually refer such applicants to contact these other offices directly. For example, family based adjustment of status applicants with ABC asylum applications pending at the Asylum Office have their cases continued (or are waiting for adjustment interviews) are told to inquire there as the Asylum Office has possession of their A-files. In other cases, when District Office transferred these A-files to the National Records Center even though there is still a pending action, we are told to check with NRC.

Jane Arellano: This is not supposed to happen. An office can request files pending at other offices. If IIO officer is giving you a problem contact Dianne Armenteros.

9) How can we ensure relating files (for example, when there is an existing A file and later the alien is adjusting through another category) are transferred in time for the interview? When such an applicant at an InfoPass appointment presents proof of a pending petition or application filed with or transferred to the Los Angeles District Office for adjudication, could the IIO please request the applicant's A-file so that the applicant's pending petition or application can be adjudicated? IIO's are also telling applicants with ABC asylum applications pending at the Asylum Office that they need

to withdraw their asylum applications before the Los Angeles District Office can request their A-files. The Asylum Office has repeatedly confirmed that ABC asylum applicants are entitled to pursue non-asylum applications for relief without waiving any of their rights under the ABC settlement agreement and that the Asylum Office has confirmed they will gladly loan these applicants' A-files to the Los Angeles District Office if requested. Can this be clarified with the IIOs?

Jane Arellano: An applicant for AOS is not required to withdraw asylum or ABC benefits in order to get obtain resident status. Will make sure records and clerical staff and IIO's are aware of this. If this happens again bring it my attention.

10. What is the best way to inquire about I-751's pending at LADO for more than one year after the interview? I 751s transferred to LADO for interview and now past the processing time? When inquires to ELA go unheeded?

Jane Arellano: Spoke to Daphne Lu, and infopass is preferred method. New detail of officers will be assigned to I-751 adjudications to address backlog. Stamp will be extended at infopass.

11. At Santa Ana office, attorneys must have an appointment letter to enter the building. Security guards and their supervisor are not permitting entry solely with our Bar card; thus, we must present an appointment letter. We were told this is a new policy. Is that correct? If yes, why such restrictions are set? Are we no longer able to access officers and supervisors other than at scheduled interviews?

Noela Tapia: Mary Koslowski responded that attorneys must present appointments because in person inquiry is not permitted. Use the fax inquiry system or call the officers. Have had incidents where attorneys have showed up without notice to speak to officers and also notarios showing up. To avert problem, it is best to use fax or telephone inquiry.

12. Under old 8 CFR Sec.103.5(a)(iii), when filing a Motion to Reopen and Reconsider, the Form I-290A is not required because this form is obsolete. However, CIS amended this sub-section on 08/29/2005, stating "(iii) Filing Requirements--A motion shall be submitted on Form **I- 290B** and may be accompanied by a brief..." See Federal Register, August 29, 2005 (Volume 70, Number 166), Page 50954-50957. But, the title of Form I-290B still is Notice of Appeal to the Administrative Appeals Office (AAO), and its format and entries are related to appeal rather than motion to reopen or reconsider.

Please clarify whether **Form I-290B** can be used for MTR for denied I-485 case under the amended rule? If Yes, how should we fill out that form?

Jonathan Katz/Jane Arellano: Scratch off Appeal on I-290B and write in MTR. Then fill out and send MTR to Chicago if going to fee in \$385.00. If service error MTR, no filing fee is needed and submit at 8323.

UPDATE ON STAFFING AND POLICY CHANGES AND CURRENT PROCESSING TIMES:

- a) Have there been any staffing changes? **No.**
- b) Have there been any policy changes? **Working on new letter regarding approved cases, will get back to us because still in draft stages.**
- c) For adjustment of status applications for interviews at the Los Angeles District Office:

Jane Arellano: Applications filed in May 2005.

- 1) What are the current processing times for I-130 and I-751?

I-130 – Immigration Cases 8/2004. Transferred CSC cases, processing 2001 cases.

I-751 (East Los Angeles) – No information given.

I-140 (transferred cases) – No information given.

- d) For adjustment of status applications pending in Santa Ana:

Noela Tapia: Applications filed April 2005.

- 1) What are the current processing times for:

I-130 – Adjustment/I-130: April 2005.

I-140 (transferred cases) - Adjustment/I-140: December 2004.

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

Applications filed in May 2005.

- 1) What are the current processing times for:

I-130 – No answer.

I-140 (transferred cases) – No answer.

For Naturalization applicants:

- 1) What is the current processing time between the date of filing and the preliminary interview? **7 months.**
- 2) What is the current processing time between the date of passing the preliminary interview and the Naturalization ceremony? **El Monte same day. Varies in other offices 30-60 days.**

For LIFE legalization cases:

- 1) How many interviews have occurred? **No information given.**
- 2) Second interviews? **No information given.**
- 3) How many have been approved? **No information given.**

4) How much notice is being given? **No information given.**

*****NOTE FROM JANE ARELLANO*****

For IJ cases, where case is completed and return of documents is needed, fax inquiry to (213) 830-5017 to get documents to arrange pick up (LPR cards, passports, social security cards/licenses). Will arrange pick up at Room 6532.

Respectfully submitted,

Naveen Rahman
Treasurer
AILA SOUTHERN CALIFORNIA CHAPTER