

**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
USCIS CHICAGO FIELD OFFICE
QUESTIONS FOR September 27, 2017 MEETING
101 W. CONGRESS PARKWAY
CHICAGO, IL 60605**

1. Parole-in-Place Applications

- a. What is the current time frame for adjudication of PIP applications pending at the local office?

We do not track processing times for PIP requests.

- b. Is the processing time different for requests for humanitarian vs. military PIP?

We do not track processing times for humanitarian PIP but there should be no distinction for processing these requests vs. requests for military PIP.

- c. Is a particular team assigned to adjudicate requests for PIP?

Yes – The ISOs in the Customer Service Unit adjudicate requests for PIP.

2. Deferred Action

- a. What are the current criteria considered for requests for deferred action?

Deferred action is a discretionary determination to defer a removal action as an act of prosecutorial discretion. There is no specific criteria used in this determination, however, as noted in the response below, the requestor may provide medical information, evidence of community and familial ties and equities, conditions in the requestor's country of origin, and any other evidence that supports a favorable exercise of discretion.

- b. What is the current preferred procedure for submitting a request for deferred action?

A request for deferred action can be made in writing and signed by the requestor. No fee is required for a deferred action request. The requestor or his or her legal representative may either make an INFOPASS appointment to present the request, or submit the request by mail to the USCIS field office having jurisdiction over the requestor's place of residence. To support a deferred action request, the requestor may provide:

- **An explanation as to why he or she is seeking deferred action including any supporting documentation (e.g., medical information, evidence of community and familial ties and equities, conditions in the requestor's country of origin, etc.)**
- **Proof of identity and nationality, including a birth certificate, a passport and/or Identification Card, driver's license, notarized affidavit(s), school or medical records, etc.**
- **Any document the requestor used to lawfully enter the United States including, but not limited to, Form I-94, Arrival/Departure Record, a passport with visa and/or admission stamp, and any other documents issued by other components of DHS or legacy INS**

- Form G-325A Biographic Information
- A requestor who has legal representation must submit a properly completed Form G-28, Notice of Entry as Attorney or Accredited Representative

c. What is the current processing time for deferred action requests submitted to your office?

We do not track processing times for these requests.

d. If an application remains pending beyond this stated timeframe, what is the procedure for making inquiries?

If your request is pending for over 6 months, please contact Stacey Summers, the Customer Service Unit Branch Chief, stacey.l.summers@uscis.dhs.gov .

3. RFEs prior to denials

Pursuant to 8 CFR 103(b)(8), an officer has the discretion to deny a case or issue a request for evidence when he believes that there is a lack of initial evidence or eligibility. The standard of proof for these cases is the preponderance of the evidence. However, pursuant to Chapter 10.05 in the Adjudicator’s Field Manual, whenever a case is received with all required initial evidence and the adjudicator cannot decide the case based on the information submitted, there are five options, which include issuing a request for evidence. Further, the USCIS 2013 Policy Memo regarding RFEs (PM-602-0085) states, if all required initial evidence has not been submitted, and the petition, under the totality of the evidence, does not meet the applicable standard of proof, the officer should issue an RFE.

a. When does your office issue a Request for Evidence where there is a curable deficiency, prior to denial (i.e. physical presence for 12/21/2000 for INA 245(i), I-601 waivers, incomplete medical exams, etc.)?

The Field Office may issue a Request for Evidence prior to interview, at the interview or post interview following review of the evidence presented. However, in cases where the evidence previously submitted establishes the applicant’s ineligibility for a benefit or request, USCIS will not issue a RFE, and the officer will make a decision on the record, See PM-602-0085.

b. If a denial is issued without an RFE, for a curable deficiency, can this decision be reconsidered by a supervisor?

If you believe the decision was in error please follow the instructions on the denial for filing a Form I-290B, Notice of Appeal or Motion.

4. NTA Panels

a. Please explain the review process of the NTA panel for applicants who have committed a deportable offense.

In Form N-400 cases, a panel reviews the file in order to determine if the applicant is deportable and if so, whether prosecutorial discretion may be exercised.

b. What criteria are considered?

The criteria depend on the facts present in the individual case.

c. Since the new interior enforcement memo, has the office exercised its discretion to not issue an NTA?

Yes. However, we do not track the number of instances where prosecutorial discretion has been exercised favorably.

5. Case Follow Up Where a Priority Date Retrogressed

Who is the correct contact for adjustment cases that have had their initial interview before their priority date was current, and then when the priority date becomes current and no action is taken?

Please reach out to the National Benefits Center (NBC). (A list of contact information is attached.) If an adjustment of status case is scheduled for interview prior to the priority date becoming current, the Field Office will conduct the interview and forward the file to the NBC to hold and adjudicate when the priority date becomes current.

Can the Chicago Office assist in these instances?

Please reach out to the NBC for assistance on these cases as they will be transferred following interview. You may also make an Info Pass appointment at the Field Office if you wish to reconfirm that the file has been transferred to the NBC or contact the National Customer Service Center: 1-800-375-5283 (TDD for the deaf or hard of hearing: 1-800-767-1833).

Also, who should our members reach out to when the priority date becomes current but no interview is scheduled?

If the priority date becomes current prior to the initial interview, the NBC will need to complete their pre-processing prior to releasing the adjustment of status case for interview at the Chicago Field Office. If an initial interview has already occurred, NBC does not schedule a second interview and retains the file to complete adjudication.

6. Interview Waiver Policy in Employment Based Cases

On August 14th it was announced that, beginning October 1st, all employment based applications for adjustment of status would be subject to interviews.

- a. Does the District Office have an additional information or guidance for our members regarding these interviews?

USCIS is beginning a phase- in of employment based adjustment of status cases for interview at the Field Offices.

- b. Will cases filed prior to October 1, 2017 be called for interview or is it only for cases filed after October 1, 2017.

Cases filed prior to 10/1/17 may be called for interview.

- c. How has the office adjusted scheduling if at all?

As employment based adjustment of status cases are made available to the Field Office, we are incorporating these into our regular scheduling process.

- d. Are there any specific items that your office would suggest bringing to the interview?

Please refer to the instructions on the interview notice. In addition, it is recommended to bring originals and copies of any documents that are believed to further support the application.

- e. Will the adjudicators be receiving any specialized training on employment based issues?

Yes. ISOs at Field Offices nationwide are receiving specialized training.

7. Passport Stamp During N-336 Adjudication

We understand that an applicant who had a I-551 card which was valid for at least 6 months prior to filing an N-400 application can obtain a passport stamp, if necessary, to confirm their valid LPR status. Does this policy also continue during the adjudication of an N-336?

As your question correctly indicates, the I-551 card must be valid for at least 6 months prior to filing the N-400 in order to obtain an I-551 stamp in a passport. If these threshold criteria are met and the N-336 is timely filed, the N-400 applicant may continue to receive renewals of the I-551 stamp as long as the N-336 is pending.