

**AMERICAN IMMIGRATION LAWYERS ASSOCIATION  
USCIS CHICAGO FIELD OFFICE  
QUESTIONS FOR December 7th, 2016 MEETING  
101 W. CONGRESS PARKWAY  
CHICAGO, IL 60605**

**J-1 waiver and adjustment**

1. Can an I-485 be approved if a waiver of two year foreign residency of a J visa is granted after I-485 was filed? In other words, must the waiver be approved before the adjustment is filed?

The waiver must be approved before the adjustment is filed. See #8 in the Who Is Not Eligible to Adjust Status, section of the Form I-485 Instructions found at:<https://www.uscis.gov/sites/default/files/files/form/i-485instr.pdf>.

Moreover, please note that if the waiver is granted under section 214(l) of the Immigration and Naturalization Act (pertaining to J-1 foreign medical graduates), the I-485 may not be approved until the terms and conditions of the waiver have been fulfilled.

**Attorney representation during interview**

2. Members report not being allowed to sit next to their clients during interviews even when there seems to be an open chair or space. Is there a policy regarding attorney seating during interviews? If we encounter an officer who is unwilling to allow us to sit near our clients, what is the best way to address this?

Our office will try to accommodate the request of an attorney to sit near his/her client. However, other factors may impact the placement of attorneys in an interview such as the physical layout of the interview space.

If you encounter this situation, please request to speak to a floor supervisor.

**Naming**

3. How is the name that appears on a permanent resident card determined? Is it based solely on what appears on the I-485 or does the birth certificate/passport control?

The name on the permanent resident card must be issued to the individual in his or her full legal name, not what is listed on the I485 as a preference by the applicant.

## Policy on Late Arrivals

4. What is the office's policy on late arrivals for interviews? Chapter members have reported having to wait over 4 hours to be called by an officer when the interviewees were late for the scheduled time. Would it be possible for officers to give a timeframe so that attorneys know when they can expect to be called in these types of situations?

There is no office policy regarding late arrivals for interviews. Please understand that if you or your client arrives late for the interview this may interfere with the officer's schedule and the officer may have to take your case after other customers.

The staff will be reminded to inform customers of inordinate delays.

## UPL

5. At the UPL Summit, Director Cioppa stated that the FDNS Unit handles investigations of Notario Fraud and other immigration related scams.
  - a. How would a member report an alleged immigration fraud activities and other scams to this unit?

You can report in person on the first floor by asking to speak to the FDNS Duty Officer or by mail to:  
FDNS Duty Officer  
USCIS  
101 West Congress Parkway  
Chicago, IL 60605

- b. What is the formal procedure? Is a formal complaint required? Who is the supervisor?

The procedure consists of notification using the above mentioned means. No formal complaint is required. The head of the FDNS Unit in Chicago is Nicholas Milissis, FDNS Chief, District 14.

- c. How would a member know the status of an investigation related to a complaint of this nature that they filed?

Updates are not normally provided given that it is an ongoing investigation.

## Prosecutorial Discretion

6. After submitting a request for prosecutorial discretion with Citizenship (seeking non-issuance of an NTA), how long should attorneys wait for response? Who should this request be directed towards?

It is not necessary for you to submit such a request because all citizenship cases in which the applicant is subject to removal are examined through NTA panels, and a decision on whether to exercise prosecutorial discretion is made at that time. NTA panels are convened once or twice a week. If the NTA panel decides to issue an NTA a separate panel is convened with ICE Counsel to obtain their concurrence.

- a. On the other hand, where USCIS Citizenship will issue an NTA, what is the turn-around period for actual issuance of an NTA and registering it with EOIR?

It varies based on the officer's workload. The process is monitored by a supervisor. NTAs are reviewed by USCIS and ICE counsel and filed by ICE Counsel with EOIR.

- b. Is there a specific individual or supervisor where we should forward requests for prosecutorial discretion against issuance (or for issuance) of an NTA?

See answer above. If there are additional factors to be considered that arose after the interview you may advise Branch Chief Rose Cavazos.

### **Emergency Advance Parole**

7. The Chicago Field Office previously confirmed in the 2015 December Meeting that they would accept same-day emergency advance-parole requests for all types of cases (including DACA-based requests). Members have recently reported that the first floor InfoPass Section is no longer accepting same day emergency advance parole requests and all requests must be submitted by mail. Can you clarify this office's policy with regard to same-day emergency advance parole requests?

- a. If this office continues to accept these requests, is there a designated person or persons that such requests should be directed to?

Applicants requesting an Advance Parole Document in an emergency situation will be checked in at counter 19 on the first floor, and given a number. When their number is called, they will first be seen by an Officer who will gather the necessary information. The Officer will then consult with the supervisor who makes the final decision based on what is submitted by the applicant.

- b. Does the amount of remaining DACA authorization have any bearing as to whether the advance parole will be issued?

An Advance Parole Document will not be issued if the applicant's DACA status expires. It must be valid through the length of travel.

- c. What is the expected timeline for an emergency advance parole request? Can members expect adjudication on the same day?

If the requestor submits evidence that sufficiently supports the emergency request for an advance parole document, we will attempt to process the request the same day.

- d. Given the election, are there any plans to reallocate resources to adjudicate potential increases in DACA applications or advance parole requests?

We are not going to speculate on what sort of policies the new administration may choose to prioritize or pursue.

### **Presidential Election**

- 8. Has the office received any sort of guidance or directives regarding policy changes in light of the Presidential election?

Many USCIS customers have been contacting us with questions regarding current immigration programs and possible future immigration policies. We continue to process all applications, petitions, and requests consistent with current statutory laws, regulations, and policies. USCIS cannot comment on what policies the incoming Administration may choose to prioritize or pursue. We remain focused on our mission to administer U.S. immigration laws and to provide a high level of service to our customers.