



IMMIGRATION POLICY UPDATE

A New USCIS Policy Brings Sweeping Changes for Green Card Applications Filed Inside the U.S.

What is clear, and what is still unknown

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Yesterday, U.S. Citizenship and Immigration Services (USCIS) issued a policy memorandum ([PM-602-0199](#)) that changes how its officers approach adjustment of status — the process of applying for a green card from inside the United States rather than at a U.S. embassy or consulate abroad.

The clear result of this policy shift is that adjustment of status will be harder to obtain. What is not yet clear is how much harder, and how many applicants it will affect.

What the USCIS memo says

The USCIS memo recasts adjustment of status as an “extraordinary” benefit, granted as a matter of “discretion and administrative grace” rather than something an eligible applicant can simply expect to receive. Its effective impact is to establish a strong default in favor of consular processing — applying from abroad — and to treat applying from within the United States as the exception. The most important point to understand is that this presumption applies even when none of the usual negative factors are present. A clean record, on its own, is no longer enough, because the presumption against adjustment must itself be affirmatively overcome.

If implemented strictly, the new policy could affect hundreds of thousands of green card applications each year, causing long family separations and other challenges as applicants are forced to return to their home country to seek consular approval.

The memo does identify negative factors that weigh against an applicant — overstaying a visa, working without authorization, entering without inspection, or otherwise falling out of status — but it is explicit that the absence of those factors does not, by itself, entitle the applicant to adjust their status.

The practical consequence is that, at a minimum, anyone applying for adjustment of status will now need to affirmatively assert and document the positive factors in their favor — known as “equities,” such as family ties, length of residence, work and tax history, education, and community contributions. However, even this may not be enough to overcome the new presumption against US-based processing.

Some important exceptions remain. Refugees and asylees, along with certain other humanitarian categories, are decided under separate rules and remain entitled to approval if they qualify; this discretionary framework does not apply to them. Holders of “dual intent” work visas such as H-1B and L-1 also have more protection, because pursuing permanent residence is consistent with those statuses, though that, on its own, is not a guarantee of approval either.

What remains uncertain

A great deal is still unsettled. The memo sets the tone but leaves the details to implementation, and it is not yet clear how much harder approval will actually become — in particular, whether a strong showing of equities will be enough, or whether USCIS will begin denying adjustment far more broadly. That should come into focus over the coming weeks and months, including through any category-specific guidance the agency has signaled it may issue. A legal challenge to the policy also appears likely, but the Department of Homeland Security has broad discretion in this area, so applicants should not assume the courts will set it aside.

What it means in practice

For anyone with a pending or planned application:

- Build the strongest possible record — plan to affirmatively present your equities rather than relying on eligibility alone.
- Consider with your attorney whether consular processing is an option for you, and whether the downsides and longer wait times are outweighed by the risks of adjustment of status rejection in the U.S.
- Be cautious about international travel without fully understanding the consequences for your particular situation, including unlawful presence bars or other situations that could prevent you from returning

We are watching this closely and will keep you informed as USCIS implements the policy and as any legal challenges develop. In the meantime, if you have any questions or concerns or would like to seek advice regarding your situation, please [reach out](#).

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