



U.S. Citizenship and Immigration Services

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Chapter 5 - Adjudication Procedures

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A. Record of Proceedings Review and Underlying Basis

The officer should place all documents in the file according to the established record of proceedings (ROP) order, including the filing of any documents the applicant submitted in response to a Request for Evidence (RFE).

When the officer reviews the application for adjustment of status of a refugee, the officer should also review the refugee travel packet to verify the applicant's identity, refugee status and admission, completion of the overseas medical exam and to ensure consistency with the adjustment application. There are several forms that may be found in the A-File that may be of particular importance:

- Registration for Classification as Refugee (Form I-590)

This form documents identity, marital status, number of children, military service, organizational memberships and any violations of law. A photo of the refugee should be attached to the upper left hand corner. In addition, the Port of Admission Block at the bottom of the second page should be stamped. This indicates the refugee's particular port of entry and date of admission.

- Sworn Statement of Refugee Applying for Admission into the United States (G-646)

This form documents the applicant's testimony regarding possible persecutory acts and the inadmissibility provisions that pertain to refugees.

- Refugee Assessment

This document, completed by a USCIS officer, contains the testimony given by the principal refugee to establish his or her claim for refugee status during an interview with a USCIS officer and includes the officer's legal analysis including an assessment of the applicant's eligibility under the refugee definition, admissibility, and credibility.



- Case History/Persecution Story

This document details the key material aspects of the principal refugee's life from birth up to the time of refugee processing. It is completed by Resettlement Support Center (RSC) staff under cooperative agreement with the U.S. Department of State (DOS).

- Family Tree

This document contains the biographic information and family relationships for the principal refugee and each person included in the case of the principal refugee. The family tree is completed by RSC staff under cooperative agreement with the DOS.

- Referrals from the Office of the United Nations High Commissioner for Refugees (UNHCR), the U.S. Embassy or Nongovernmental Organization (NGO)

These documents contain biographical information, family relationships, organizational memberships, political/social/religious affiliations, any detentions or imprisonments, the refugee claim, and inadmissibility issues. This document is completed by UNHCR, the U.S. Embassy, or the referring NGO.

- Record of Medical Examination

This form documents the pre-departure medical examination of the refugee. Any Class A conditions would be noted, as would any recommendations for follow-up treatment.

B. Interview Criteria

The decision to interview a refugee applicant for adjustment of status is made on a case-by-case basis.^[1] Interviews are generally required when an officer is unable to verify identity or determine admissibility based solely on the immigration records available to the officer. Although the decision to conduct an interview is made on a case-by-case basis, an officer should generally refer a case for interview if it meets one or more of the following criteria:

- The officer cannot verify the identity of the applicant through the information in the A-File and other USCIS systems;
- The officer can verify the identity of the applicant through the information in the A-File or other USCIS systems, but the applicant is claiming a new identity;
- Immigration records are insufficient for the officer to determine whether or not the applicant has refugee status;
- The applicant has an approved [Form I-730](#), but, if granted overseas, was not interviewed as part of the derivative refugee process or, if granted in the United States, was not interviewed prior to the approval;
- The applicant's Federal Bureau of Investigation (FBI) fingerprint check results indicate a record that may cause the applicant to be inadmissible, or the applicant has had two unclassifiable fingerprint responses;
- The officer cannot determine the applicant's admissibility without an interview;



- The officer determines that the applicant is inadmissible but that an interview is necessary to determine if a waiver is appropriate;
- The applicant has an articulable and unresolved national security or terrorism-related ground of inadmissibility concern;
- The applicant has unresolved or conflicting identities, other than properly documented by legal name changes;
- A sworn statement is required to address the applicant's admissibility;
- An interview would yield clarifying information, such as with an unclear response to an RFE concerning the applicant's admissibility; or
- The officer has any other articulable and unresolved concern regarding identity, inadmissibility, national security, public safety, or fraud.

These interview criteria may be modified in response to developing circumstances and concerns.^[2]

C. Requests to Change Name or Date of Birth

The officer must address and reconcile any discrepancy in biographical information found in case records or USCIS data systems at the time of adjustment. During the overseas interview, the refugee reviewed their refugee application, relative petition, and biographical information and had the opportunity to correct any errors or resolve any identity issues at that time. An officer may not accept an affidavit as proof of a changed name or erroneous date of birth.

The officer should be aware that name changes may occur after the refugee interview, such as in the case of a legal adoption, marriage, or divorce. Applicants requesting a name change at time of adjustment need to submit one of the following documents issued by a civil authority (whether by a foreign state or U.S. authority):

- Legal name change decree – lists former and new legal name;
- Marriage certificate – listing maiden name/last name of spouse;
- Divorce decree – showing restoration of maiden name; or
- Adoption decree – lists adopted child's birth name and the names of the adoptive parents.

While there may be a reasonable explanation for a refugee to change his or her name after arrival, an officer should consider whether such a change raises the possibility that the person either used an alias or committed fraud or misrepresentation at the time of the overseas interview.

D. Spelling of Names and Naming Convention Issues

From time to time, refugee adjustment applicants may complete an adjustment application by filling out their name in some variation of what was listed on the refugee application or relative petition. Although some immigrants may be permitted on other local or federal government-issued documents to anglicize their name or to use a slightly different spelling, refugees are not permitted to change the spelling of their

names from what was listed on their refugee application or relative petition or to use an anglicized version on at time of adjustment. This is prohibited in order to preserve the continuity and integrity of immigration records on the refugee.



Occasionally, the refugee application or relative petition may contain an error in the spelling or the order of a person's name. If, based on a review of underlying documents in the refugee packet, the officer clearly recognizes such an error, he or she may correct the error by amending the name on the adjustment application accordingly. If the applicant is approved for permanent resident status, the name must also be amended in the appropriate electronic systems.

E. Detained Refugees

In certain circumstances, U.S. Immigration and Customs Enforcement (ICE) may encounter a refugee who has failed to timely file for adjustment of status under [INA 209\(a\)](#). This most often occurs when the refugee has been apprehended by other law enforcement agencies for suspected criminal activity. If ICE determines that the refugee should be placed in removal proceedings, the local Enforcement and Removal Operations (ERO) field office promptly reaches out to its corresponding USCIS Field Office Director or designated point-of-contact to begin the adjustment of status process.

The ERO field office advises the refugee of the requirement by law to file for adjustment of status and provides the refugee with an adjustment application and waiver application (if required) [\[3\]](#) to fill out prior to the refugee's release from custody. Should the refugee refuse, ICE personnel fills out Part 1 of the adjustment application and signs as completed by ICE. Originals are sent to the USCIS Field Office Director or designee for expedited processing and adjudication.

F. Decision

1. Approval

If the adjustment application is properly filed, the applicant meets all eligibility requirements, and the applicant satisfies admissibility and waiver requirements, then the officer must approve the application. Unlike most applications for adjustment of status, refugee adjustments are not discretionary, and the application may only be denied if the applicant is found to be ineligible, inadmissible, or if the application was improperly filed.

Effective Date of Residence

If the adjustment application is approved, the effective date of permanent residence is the date the applicant was first admitted to the United States as a refugee.

The effective date of permanent residence for derivative refugees who gained their status through an approved relative petition and who were already in the United States when the petition was approved is the date the relative petition was approved.

Code of Admission

An applicant who has been granted refugee status in his or her own right (RE-1, classification as a principal) is adjusted using the code "RE-6." The RE-6 code should not be used for the former spouse or

child of a principal refugee where that relationship terminated after the derivative was granted refugee status. The RE-6 code is reserved solely for the principal refugee to ensure there is no confusion regarding the eligibility to file a relative petition.



An applicant who was admitted as a spouse of a refugee (RE-2 classification) who either remains the spouse or becomes a former spouse of the principal at time of adjustment is given the code “RE-7.” An applicant who was admitted as a child of a refugee (RE-3 classification) is given the code “RE-8,” regardless of the child’s marital status or current age at time of adjustment.

In cases of nonexistent or fraudulent derivative refugee relationships in which a waiver was granted, applicants should be given an adjustment code of RE-7 or RE-8, depending on the original admission code given, even though they are not technically the derivative spouse or child of the principal refugee.

Classes of Applicants and Corresponding Codes of Admission

Applicant	Code of Admission
Refugee (Principal)	RE6
Spouse of a Principal Refugee (RE6)	RE7
Child of a Principal Refugee (RE6)	RE8

The officer must ensure that the refugee’s new Class of Admission (COA) information is updated in the appropriate electronic systems, so that the applicant receives a Permanent Resident Card. After completion, A-Files are routed to the National Records Center (NRC).

2. Denial

If the adjustment application is denied based on inadmissibility, the refugee should be placed into removal proceedings, provided there are applicable grounds of deportability under [INA 237](#).^[4]

If the adjustment application is denied based on improper filing, abandonment, or ineligibility, the applicant has not been inspected for admission and should not be placed into removal proceedings because no determination of admissibility has been made. The applicant continues to have refugee status until such time that the applicant is inspected and an admissibility determination is made.

The officer should write a denial notice explaining the reasons for denial in clear language that the applicant can understand. There is no appeal from the denial, but the applicant may renew the application for adjustment while in removal proceedings before the immigration judge.

Footnotes

^[^1] See [8 CFR 209.1\(d\)](#).

[\[^2\]](#) USCIS revised the interview criteria list for refugee-based adjustment of status applications on December 15, 2020, and after evaluating the criteria during implementation, USCIS is further revising criteria that applies when an officer determines whether to refer an asylee or refugee adjustment applicant for an interview. The updated interview criteria align with existing interview criteria for [INA 245](#) adjustment as they relate to the admissibility determination and identity verification. Accordingly, the criteria promote consistency in adjudications across all adjustment applications. These criteria are well within the parameters of [8 CFR 209.1\(d\)](#), as they retain an officer’s discretion, and each is reasonably related to the admissibility of the applicant. Additionally, officers must continue to make each determination to waive or require an interview on a case-by-case basis.



[\[^3\]](#) See Chapter 3, Admissibility and Waiver Requirements [[7 USCIS-PM L.3](#)].

[\[^4\]](#) See [Matter of D-K- \(PDF\)](#), 25 I&N Dec. 761 (BIA 2012). The [noncitizen](#) “must be charged in the notice to appear under section 237 of the [INA] rather than section 212 of the Act.” See [Matter of D-K- \(PDF\)](#), 25 I&N Dec. 761, 761 (BIA 2012).

Current as of April 21, 2023
