



August 13, 2019

AFM PA-2019-04

## Policy Alert (AFM)

SUBJECT: Updated Guidance for Adjudication of Cuban Adjustment Act Cases

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in Chapter 23.11(a)(1), (h) and (n) of the Adjudicator's Field Manual (AFM) relating to adjustment of status under the Cuban Adjustment Act (CAA).<sup>1</sup>

### Background

In 1966, Congress enacted the CAA as a special avenue for Cuban refugees to adjust to lawful permanent residence. In order to adjust under the CAA, principal applicants must show they meet specific eligibility requirements, including that they are Cuban natives or citizens. USCIS only accepts certain documents as evidence that an applicant is a Cuban native or citizen, and is now updating guidance providing examples of acceptable documents.

USCIS is clarifying that an expired or unexpired Cuban passport can be evidence of being a Cuban native, and an unexpired Cuban passport can be evidence of Cuban citizenship. Based upon additional information from the U.S. Department of State, USCIS is also clarifying that a Cuban Citizenship Letter (*Carta de Ciudadanía*) or a Nationality Certificate (*Certificado de Nacionalidad*) may be evidence of Cuban citizenship. Previously, acceptable evidence of Cuban citizenship generally included "a Cuban Civil Registry document issued in Havana." However, a birth certificate issued by the Civil Registry or a Cuban consular certificate documenting an individual's birth outside of Cuba to at least one Cuban parent is not sufficient to establish Cuban citizenship. This remains true even if the birth or consular certificate states the individual to whom the certificate was issued is a Cuban citizen.

USCIS is also updating the AFM to make clear that USCIS will generally not certify denied CAA cases to the Administrative Appeals Office (AAO) to conform with current practice and internal guidance. USCIS's internal practice was modified in 2005 to reflect that USCIS will not generally certify denied CAA cases to the AAO, and the AFM will now reflect this language. The guidance is controlling and supersedes any related prior USCIS guidance.

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<sup>1</sup> See CAA, Pub. L. 89-732 (November 2, 1966).

### **Policy Highlights**

- Provides updated examples of documents applicants may submit as proof of being a Cuban native or Cuban citizen for purposes of adjustment of status based on the CAA.
- Replaces language directing officers to certify denied CAA cases to the AAO with language suggesting certification if appropriate.

### **Citation**

[AFM Chapter 23.11, Cuban Adjustment Act Cases.](#)