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U.S. Citizenship
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Services

Chapter 5 - Adjudication Procedures

Guidance

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A. Record of Proceedings (ROP) Review and Underlying Basis

The officer should place all documents in the file according to the established Record of Proceedings 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 Applicant for Entry into the US (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

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[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 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 will be made on a case-by-case basis.^[1] Interviews are generally required when an officer at a Service Center is unable to verify identity or eligibility or to determine admissibility based solely on the immigration records available to the officer. Although the decision to relocate a case to a field office for interview will be made on a case-by-case basis, an officer at the Service Center should generally relocate a case to the field office for interview if it meets one of the following criteria:

- The officer cannot verify the identity of the applicant through the information in the A-file.
- The officer can verify the identity of the applicant through the information in the A-file, 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.^[2]
- The applicant's FBI fingerprint results indicate that further processing is needed.
- The officer cannot determine the applicant's admissibility without an interview.

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C. Beneficiaries Applying for Adjustment without Prior Interview Overseas

Within two years of his or her admission, a refugee may petition for a spouse and child(ren) on a Refugee/Asylee Relative Petition ([Form I-730](#)). When proceeding from abroad, the derivative beneficiary is required to undergo an overseas interview and processing. When applying for adjustment of status, there is the possibility that some derivative family members may not have gone through the overseas process or may not have been admitted to the United States as refugees.

For example, beneficiaries of an approved relative petition sometimes enter the United States without inspection or on a nonimmigrant visa. The beneficiaries may never have received an interview confirming their identity and relationship to the principal, which is part of the USCIS process overseas. Under current regulations, refugee status is conferred on the beneficiary at the point he or she is present in the United States with an approved petition, although the beneficiary may never have provided biometrics or appeared in person before a USCIS or consular officer to verify his or her identity.

In addition, a derivative refugee must be admissible to the United States (for example, if any of the grounds of inadmissibility apply to the derivative refugee, the grounds must be waived before the derivative refugee is fully qualified for such status). Since, in this particular situation, the applicant was not interviewed overseas and was not inspected and admitted as a refugee at a port of entry, it raises the possibility that a ground of inadmissibility may exist.

To address these concerns and to verify identity and the familial relationship, in the event a derivative family member of a refugee is applying for adjustment of status without having been previously interviewed either abroad or in the United States, the officer should refer him or her for an interview at a field office as part of the adjustment of status process.

During the interview process, the USCIS officer will verify the identity of the beneficiary and the requisite familial relationship to the principal as well as examine the beneficiary's eligibility for admission as an immigrant. The officer may conduct a background investigation to address any of these issues, provided that the investigation maintains the confidentiality of the principal's refugee application.

D. 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 will need to submit one of the following documents issued by a civil authority, (whether by a foreign state or U.S. authority):

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- 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.

E. 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 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.

F. 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 Field Office (ERO) will promptly reach out to its corresponding USCIS Field Office Director or designated point-of-contact to begin the adjustment of status process.

The ERO field office will advise the refugee of the requirement by law to file for adjustment of status and will provide him or her with an adjustment application and waiver application to fill out prior to the refugee’s release from custody. Should the refugee refuse, ICE personnel will fill out Part 1 of both forms instead and sign them as completed by ICE. Originals are sent to the USCIS Field Office Director or designee for expedited processing. The field office should follow procedures to alert the Nebraska Service Center (NSC) by e-mail that they are sending a faxed copy of the adjustment application for expeditious handling.

If the NSC determines that the refugee has already submitted a refugee-based adjustment application or has a denied refugee-based adjustment application, they will contact the field office concerning the use of the previously-filed application. If a case is already pending at the NSC, the NSC Duty Attorney will

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If the NSE does not locate a prior adjustment application, the NSE will assign a receipt number to the application and will update the necessary systems so that adjudication of the application at the field office may proceed.

G. 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 will be 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
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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 will receive a permanent resident card. After completion, A-files will be 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](#).^[3]

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

- [^] See [8 CFR 209.1\(d\)](#).
- [^] See Section C, Beneficiaries Applying for Adjustment without Prior Interview Overseas [[7 USCIS-PM L.5\(C\)](#)].
- [^] See [Matter of D-K- \(PDF\)](#), 25 I&N Dec. 761 (BIA 2012). The alien "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).

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