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Chapter 5 - Adjudication Procedures

Guidance

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A. Record of Proceedings Review and Underlying Basis

The officer should place all documents in the A-file according to the established record of proceedings order, including the filing of any documents the alien 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 alien'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 the alien's identity, marital status, number of children, military service, organizational memberships and any violations of law. A photo of the alien 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 alien'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 alien'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 alien's eligibility under the refugee definition, admissibility, and credibility.

- Case History/Persecution Story



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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 alien 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 alien. Any Class A conditions would be noted, as would any recommendations for follow-up treatment.

B. Interview Criteria

The decision to interview an alien for a refugee-based adjustment of status application 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, USCIS records and systems, or other agency records or background checks 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 alien through the information in the A-file, other USCIS records and systems, or other agency records or background checks; ^[2]
- The officer can verify the identity of the alien through the information in the A-file, other USCIS records and systems, or other agency records or background checks, but he or she is claiming a new identity;
- Immigration records are insufficient for the officer to determine whether the alien has refugee status;
- The alien is a beneficiary of an approved Refugee/Asylee Relative Petition ([Form I-730](#)), but, the petition was approved when the alien was outside the United States, and he or she was not interviewed before his or her arrival to the United States ^[3] or the petition was approved when the alien was in the United States and was not interviewed before the petition was approved;
- The alien's Federal Bureau of Investigation (FBI) fingerprint check results indicate a record that may cause the alien to be inadmissible, or the alien has had two unclassifiable fingerprint responses;
- Additional information is required from the alien to address potential admissibility issues or assess potential inadmissibility waiver considerations;
- The alien has an articulable national security or terrorism-related ground of inadmissibility concern;

- There is evidence that suggests that at the time of admission as a refugee, the alien's refugee status may have been obtained through fraud or misrepresentation; [\[4\]](#)
- The alien has conflicting or multiple identities, other than properly documented by legal name changes;
- A sworn statement is required to address the alien's admissibility;
- An interview would yield clarifying information, such as with an unclear response to an RFE concerning the alien's admissibility;
- The officer articulates an inadmissibility concern regarding that the alien is a citizen of, or last habitually resided in, a country that is now, or was at the time of last residence, a state sponsor of terrorism; [\[5\]](#) or
- The officer articulates a concern regarding identity, inadmissibility, national security, public safety, or fraud, and recommends an interview to resolve that concern.

These interview criteria may be modified in response to developing circumstances and concerns. These criteria for adjustment of status applications filed by aliens who are refugees with specific characteristics help ensure program integrity and enhance screening and vetting to better detect fraud, misrepresentation, national security threats, and public safety risks.[\[6\]](#)

C. Requests to Change Name or Date of Birth

The officer must address and reconcile any discrepancy in biographical information found in the A-file, USCIS records or data systems, or other agency records or background checks at the time of adjudication of the adjustment of status application. During the overseas interview, the alien 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. Aliens requesting a name change at time of adjustment of status 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 an alien to change his or her name after arrival, an officer should consider whether such a change raises the possibility that the alien 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, aliens 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 aliens may be permitted on

other local or federal government-issued documents to anglicize their name or to use a slightly different spelling, aliens 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 of status. This is prohibited in order to preserve the continuity and integrity of immigration records on the alien.

Occasionally, the refugee application or relative petition may contain an error in the spelling or the order of an alien'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 of the alien on the adjustment application accordingly. If the alien 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 an alien who has failed to timely file for adjustment of status under [INA 209\(a\)](#). This most often occurs when the alien has been apprehended by other law enforcement agencies for suspected criminal activity. If ICE determines that the alien 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 informs the alien of the requirement by law to file for adjustment of status to determine admissibility and provides the alien with an adjustment of status application and waiver application (if required)^[7] to fill out prior to the refugee's release from custody. If the alien refuses, ICE personnel fills out Part 1 of the adjustment application and signs as completed by ICE, and sends the original application 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 alien meets all eligibility requirements, and the alien satisfies admissibility and waiver requirements, then the officer must approve the application. Unlike most applications for adjustment of status, refugee-based adjustments are not discretionary, and the application may only be denied if the alien 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 alien was first admitted to the United States as a refugee.

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

Code of Admission

An alien 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 an alien who is the former spouse or child of a principal refugee where that relationship terminated after the alien 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 alien who was admitted as a spouse of a refugee (RE-2 classification) and either remains the spouse or becomes a former spouse of the principal refugee at time of adjustment is given the code “RE-7.” An alien who was admitted as a child of a refugee (RE-3 classification) is given the code “RE-8,” regardless of the alien’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, aliens 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 Aliens and Corresponding Codes of Admission

Alien	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 alien's new Class of Admission (COA) information is updated in the appropriate electronic systems, so that the alien receives a Permanent Resident Card. After completion, A-files are routed to the National Records Center.

2. Denial

If the adjustment application is denied based on inadmissibility, the alien should be placed into removal proceedings, provided there are applicable grounds of deportability under [INA 237](#).^[8]

If the adjustment application is denied based on improper filing, abandonment, or ineligibility, the alien has not been inspected for admission and should not be placed into removal proceedings because no determination of admissibility has been made. The alien continues to have refugee status until such time that the alien 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 alien can understand. There is no appeal from the denial, but the alien may renew the application for adjustment while in removal proceedings before the immigration judge.^[9]

Footnotes

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

[^2] For more information on Third-Party Information, see Volume 1, General Policies and Procedures, Part A, Public Services, Chapter 7, Privacy and Confidentiality, Section D, Case-Specific Inquires [[1 USCIS-PM A.7\(D\)](#)].

[^3] For more information on following-to-join refugees, see [9 FAM 203.6](#).

[^4] The sole basis for an officer to terminate the status of an alien admitted to the United States as a refugee is if the officer determines that the alien was not a refugee within the meaning of the Immigration and Nationality Act (INA) at the time of his or her admission to the United States. This determination standard applies solely to aliens who are principal refugees and never to derivative refugees. However, an officer may terminate an alien with derivative refugee status if the principal's status is terminated. For more information on termination of refugee status, see [8 CFR 207.9](#) and Chapter 6, Termination of Status and Notice to Appear Considerations [[7 USCIS-PM L.6](#)].

[^5] For a list of countries the Secretary of State has designated to be state sponsors of terrorism, see the U.S. Department of State's [State Sponsors of Terrorism](#) website.

[^6] 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 alien. Additionally, officers must continue to make each determination to require an interview on a case-by-case basis.

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

[^8] 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).

[^9] See [8 CFR 209.1\(e\)](#).

Current as of August 04, 2025