

Preparing for Employment-Based Adjustment Interviews

For the past 25 years, only about 5 to 10 percent of all employment-based adjustment cases were referred for interviews. The government generally waived the interview process unless there were specific fraud, criminal inadmissibility or national security concerns, unresolved entry issues, two fingerprint rejections, complex 245(i) issues, or similar concerns that could not be resolved at the Service Center. That long-standing practice, however, recently changed. Now, ALL I-140-based adjustment of status applicants who filed on or after March 6, 2017 are required to appear for an in-person interview at a USCIS Field Office. This policy change is being implemented in compliance with Executive Order 13780, "Protecting the Nation from Foreign Terrorist Entry into the United States."

Leading up to the Interview

Adjustment of status applications with approved I-140s will be sent to the National Benefits Center (NBC), which will prepare an applicant's file for interview at a USCIS field office. Field offices have been specifically instructed that they are not to re-adjudicate I-140 petitions. Rather, they are to assess the validity of the supporting documentation upon which the Service Center relied in approving the I-140. The purpose is to evaluate whether the evidence submitted was accurate, bona fide, and credible. It is important to keep in mind that the line between re-adjudicating and evaluating supporting evidence is very narrow, and a distinction between the two can often become blurred. If the field office finds that the evidence does not support an approval, a recommendation to revoke the underlying I-140 will be made with the Service Center.

What to Expect During the Interview

Applicants should expect to be asked any questions relating to admissibility and adjustment eligibility. An applicant will be asked to explain where they will work, what they are going to do, and their educational background and experience. USCIS will also confirm that the employer still intends to employ the applicant and that the applicant still intends to take up employment. In addition, family members of the principal applicant should expect questions regarding their relationship to the principal and should be prepared to establish the bona fide nature of that relationship.

What to Bring to the Interview

When an interview notice is received, be sure to carefully review the document. Early on in this new process, interview notices have been issued in a generic format and include documents that are appropriate for family-based or marriage-based cases, rather than employment-based cases. This can easily cause confusion for clients and adjudicators. Applicants should bring the following documents to an employment-based adjustment interview:

- **Evidence of Education/Experience** – Bring documentary evidence demonstrating that the applicant qualifies for the PERM/I-140 petition. This includes: original diplomas, degrees,

university transcripts, experience letters, and licenses/certificates. In addition, bring certified English translations of any foreign language documents;

- **Evidence of Maintenance of Status** – Bring evidence that the applicant has maintained status or meets the requirements of INA §245(k). This includes: copies of all SEVIS forms for individuals previously holding F or J status, and any accompanying employment documents; the most recent I-94 record; copies of all I-797 extension of status notices and EADs issued since filing the adjustment of status application; and copies of W-2s;
- **Evidence of Bona Fide Family Relationship** – In cases involving derivative family members, bring original marriage certificates and birth certificates. For marriages, bring documentation to show not only the legality of the relationship, but the bona fide nature of the relationship, such as a joint mortgage, lease, utility bill, or bank statement;
- **Evidence of Current Employment** – bring recent paystubs and a letter from the employer confirming that the individual is employed in the same or a similar occupational classification;
- **Supplement J** – bring a new Supplement J if there has been a position change and there is no approved Supplement J; and
- **Medical Examination** – bring a completed Form I-693, Medical Examination if a medical examination form was not previously submitted or if a previously submitted form has expired.

If you have questions on the newly implemented I-140 adjustment of status interview process, please contact our office to schedule a consultation with one of our attorneys today!

Tags: I-140, I-140 Interview, Adjustment of Status Interview, Green Card, Obtain Green Card, Lawful Permanent Resident, Work in the US, Live in the US, US Immigration Lawyer, US Immigration Attorney