

**National Benefits Center
American Immigration Lawyers Association
Agenda for May 5, 2017**

New NBC Initiatives, Staffing Updates and Follow-up Items

1. Please provide updates on new NBC initiatives, including any new standard operating procedures that are currently in process or are scheduled to be released.

You asked about the transition of Form N-565 (Application for Replacement Naturalization/Citizenship Document) adjudication in another question (question 7), so we will discuss this item at that point in our discussion.

As a part of the fee rule effective 12/23/2016, the NBC is no longer holding benefit request filings while deficient payments are corrected. If a check or other financial instrument used to pay a fee is returned as unpayable, USCIS will re-submit the payment to the financial institution one time. If the instrument is returned as unpayable a second time, the filing will be rejected. USCIS is notified within approximately 10 days from receipt at the Lockbox that the payment (including the re-submission) has failed.

Special Immigrant Juvenile case centralization came to NBC November 1, 2016.

Military Naturalizations were received as a workload in June 2016.

2. Please provide an update on the staffing levels at the NBC, including the number of federal employees and contractors. If possible, please provide a breakdown of the number of federal employees and contractors assigned to different product lines or form types and the number of supervisors assigned to each form type.

NBC currently has nearly 900 federal employees on site plus about 1200 contract employees, and processes nearly 30 form types. It is not possible to assign an exact number of officers to a particular product line: most officers work several product lines, but can also choose to work other products intermittently. In addition, the number of officers working a particular product line can increase or decrease considerably as NBC reassigns officers to accommodate changes in product flow. However, here are estimates of the number of the adjudicating officers for the major product lines at NBC:

	TOTAL
N-Forms (N-400, N-565, N-600, etc.)	69
Ancillary Applications (I-1765, I-131)	96
Adjustment of Status-Related (I-485, I-130, I-360, etc.)	94
Adoptions-Related (I-800, I-600, etc.)	33
I-601A	144

In addition, NBC has approximately 60 analysts and 11 supervisors in Records Division, along with about 1200 contractors.

3. Please indicate if there have been any key staffing changes that have taken place since our last engagement on December 9, 2016.¹

Since the last engagement with AILA on December 9, 2016, the NBC has not had any key staffing changes.

4. The January 23, 2017 Presidential Memorandum for the Heads of Executive Departments and Agencies, "Hiring Freeze" orders a "freeze on the hiring of Federal civilian employees to be applied across the board in the executive branch." What guidance has the NBC received regarding hiring new personnel, in light of this memo?

Fortunately, the hiring freeze has been lifted with the understanding more detailed staff planning will be required by USCIS HQ in the near future. During the hiring freeze the NBC was able to continue most of our staffing efforts without significant interruption since the majority of positions responsible for processing immigration actions were deemed mission critical and exempted from the hiring freeze. While there may be adjustments made to our staffing levels in the near future as a result of HQ planning, the NBC anticipates being adequately staffed to continue fulfilling our mission requirements.

5. On March 6, 2017, the President issued a memorandum to the Secretary of State, Attorney General, and Secretary of Homeland Security on implementing parts of the March 6 Executive Order that dealt with vetting applications and petitions for immigration benefits.² The memo calls for the immediate implementation of additional screening and vetting protocols, but also includes a directive to implement procedures "as soon as practicable" to "enhance the screening and vetting of applications for visas and all other immigration benefits."
 - a. Has the NBC received any additional guidance on the implementation of the directives contained in this memo?
 - b. What is the status of the implementation of these additional procedures?
 - c. Please describe any procedures that have changed at the NBC due to this memorandum.

For Questions 5 a., b., and c: In light of the ongoing litigation we cannot respond to questions about implementation of any Executive Order or other Presidential action.

¹ NBC/AILA Teleconference Q&As (12/9/16), AILA Doc. No. 17031006, Question 2, *available at* <http://www.aila.org/infonet/nbc-aila-teleconference-q-and-a-12-09-16>.

² The full title of that memorandum is *Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People.*

- Please provide a list of form types currently being processed at NBC and indicate which location processes each form (i.e. Lee’s Summit facility or Overland Park facility).

Please see the attached listing.

- During the December 9, 2016 teleconference, the NBC announced that it was in the planning stages for transitioning Form N-565, Application for Replacement Naturalization/Citizenship Document, from Nebraska Service Center (NSC) to the NBC.³ Has that transition been completed?

No, NBC has been working with Service Center Operations on a transition plan. At this time, we do not have an estimated transition date.

- Does NBC expect any major changes to processing times in the coming months?

At this time NBC does not expect any major changes to processing times in the coming months.

Follow up question from 5/5/17 meeting: Is NBC going to post I-360 processing times?

As this is a new workload for the National Benefits Center, USCIS does not yet post specific processing times for SIJ I-360 petitions.

Form I-601A, Provisional Unlawful Presence Waiver

- Please provide Form I-601A statistics for FY2017 to date, including the number of receipts, approvals, denials, Requests for Evidence (RFEs) issued, and approvals after RFEs.

	TOTAL
FY17 Number of Receipts	38,805
FY17 Approvals	38,698
FY17 Denials	1,730
FY17 Requests for Evidence (RFEs)	5,431

The NBC does not track the number of approvals/denials after a response to the RFE is received.

³ NBC/AILA Teleconference Q&As (12/9/16), AILA Doc. No. 17031006, Question 1, *available at* <http://www.aila.org/infonet/nbc-aila-teleconference-q-and-a-12-09-16>.

10. Following the expansion of the categories of individuals eligible to file Form I-601A (which became effective on August 29, 2016), does the NBC track approvals, denials, and RFEs with respect to each of the different categories? If so, please provide a breakdown of approvals, denials, and RFEs based on the different categories.

The NBC does not track statistics distinguishing the receipts between USC Qualifying Relatives or LPR Qualifying Relatives; nor does the NBC track the statistics for approvals, denials, or Requests for Evidence (RFEs) based on relocation, separation, or both factors.

11. In its answers to the questions from the last NBC/AILA engagement on December 9, 2016, the NBC provided statistics with respect to Form I-601A filings for FY 2016 and FY 2017.⁴
- a. According to the statistics, the NBC receipted 53,137 cases in FY 2016 and reported 33,210 approvals and 6,906 denials. Is the balance of the cases (13,021) still pending?

There are 1,963 applications that remain pending from FY16. The majority are pending the FBI name check response.

- b. According to the statistics, since March 3, 2013, the NBC receipted 167,553 cases and reported 105,577 approvals and 32,432 denials. The approvals and denials account for a total of 138,009 of the 167,553 cases receipted. Is the balance of the cases (29,544) still pending?

As of Thursday, April 13, 2017, the NBC has 26,188 total pending I-601A applications.

- c. What is the average number of I-601A cases pending at any given time at the NBC?

The provisional unlawful presence waiver program is relatively new and has undergone many program and staff adjustments. In addition, we have seen an ever increasing receipt volume since implementation in 2013. Therefore, we are not able to accurately determine what would be considered average.

12. During each of our last two engagements (May 6, 2016 and December 9, 2016), the NBC indicated its processing time goal for Forms I-601A was 90 days. Recent processing time reports published on USCIS's website shows that processing times are currently closer to five months. (For example, on January 31, 2017, the NBC was adjudicating cases as of August 27, 2016.) What is the NBC's current processing goal for I-601A applications?

⁴ NBC/AILA Teleconference Q&As (12/9/16), AILA Doc. No. 17031006, Question 7, *available at* <http://www.aila.org/infonet/nbc-aila-teleconference-q-and-a-12-09-16>.

The processing goal for the Form I-601A still remains at 90 days. Over the last year, the NBC has seen the actual processing times reach further outside of this goal due to multiple factors: moving product line Overland Park, KS, adding and training new staff, and increase in receipt volumes due to Expansion Rule. The NBC has been diligently working to close the gap between the actual processing times and the 90 day processing goal. We are currently averaging 115 days from receipt to adjudication.

13. During the December 9, 2016 teleconference, the NBC stated that it planned to add additional staff to meet resource needs related to the I-601A program.⁵ Has there been any increase in the number of officers assigned to I-601As since the I-601A expansion rule went into effect on August 29, 2016?

The NBC currently has 131 Immigration Services Officers (ISOs) adjudicating I-601A applications.

Form I-485, Adjustment of Status

Interview Backlogs

14. It appears that there is a backlog of family-based Forms I-485; members report many cases that have been pending for over a year and have not been scheduled for an interview. What efforts are being made at NBC to speed the adjudication of these Form I-485s?

The NBC pre-processes I-485 applications and stages interview ready cases to be ordered by the field office of jurisdiction. The time in which a case is adjudicated is determined by the speed at which the individual field offices request cases for interview. In addition, if an application is properly filed in accordance with the Dates For Filing chart, as opposed to the Final Action Date chart, the application will be pre-processed and held at the NBC until a visa may be issued. Once the Final Action Date is current, the I-485 will be placed in the interview ready queue to be scheduled for interview.

Form I-693, Report of Medical Examination and Vaccination Record

15. Form I-693, Report of Medical Examination and Vaccination Record, has a limited period of validity (i.e., the medical exam must be submitted to USCIS less than one year after completion of the medical exam and the Form I-485 must be adjudicated no more than one year after the date the medical exam report is submitted to USCIS). Applicants who are represented by counsel are advised to obtain a new medical exam, if needed, prior to their Form I-485 interview to avoid a RFE and further delay. However, applicants who file *pro se* are not aware of the medical exam expiration.

⁵ NBC/AILA Teleconference Q&As (12/9/16), AILA Doc. No. 17031006, Question 9, *available at* <http://www.aila.org/infonet/nbc-aila-teleconference-q-and-a-12-09-16>.

- a. Will the NBC consider adding language to its Form I-485 RFEs, reminding applicants about the one-year Form I-693 expiration?
- b. In the alternative, would the NBC consider amending the language on the interview notice itself in order to advise applicants to obtain a new medical exam prior to appearing for interview?

For Questions 15 a. and b.: When NBC completes initial evidence review for Form I-485, NBC issues notices to applicants whose Form I-485 did not include Form I-693 medical or included an incomplete Form I-693. The notice instructs applicants to bring a complete medical to their scheduled interview or upon request so the Form I-693 will not be expired at the time of Form I-485 adjudication. The only exception has been Form I-485 filings accompanied by a current valid Form I-693. Cases falling into this category will not receive a notice advising the applicant to bring a valid and/or corrected Form I-693 to their interview. We will look into options that might be feasible for us to address this concern.

The new Form I-485 instructions, which are scheduled to publish in June 2017, notify applicants that they are not required to submit Form I-693 at the time of filing Form I-485. Because of the time-limited validity of Form I-693, applicants may choose to submit Form I-693 at an interview. By waiting to submit Form I-693, applicants may avoid having to repeat the medical examination.

Follow up question from 5/5/17 meeting:

The Policy Manual states the applicant must submit the I-693 less than 1 year from when the examination was completed, and the benefit must be completed no more than 1 year from the date the I-693 was submitted to USCIS. Does all NBC policy follow this?

A review confirms all I-693 Notices sent by the NBC at this time conform to current policy and refer to the proper Form revision date.

Interview Waivers

16. Form I-485 "interview waiver" cases routinely take several months longer to adjudicate than I-485 applications that are interviewed at local offices. At past engagements, the NBC expressed its desire to bring processing times for "interview waiver" I-485 applications more in line with the processing times for I-485 applications that are interviewed at local offices. Can you provide an update on the divergence in processing times in this regard and what efforts are being made to reduce or eliminate the divergence in processing times?

We are providing a combined response for Questions 16 and 17. Field Operations Directorate (NBC and USCIS field offices) continues to collaborate on I-485 interview and interview waiver case processing. FOD's goal is for offices to have parity in case processing times for interview and interview waiver I-485s. In December 2016 NBC worked with FOD HQ and the field offices to change IW shipments from by capacity (regardless of which office had jurisdiction over the case) to by jurisdiction. Most I-485

IW cases now ship to the field office with jurisdiction for adjudication. This allows offices to have more control over both interview and interview waiver I-485 case processing times.

17. For some time, NBC has forwarded potential interview-waiver I-485 applications to the field offices for adjudication, including to field offices that may not necessarily have jurisdiction over the applicant's case. In some cases, the field office determines that an interview is needed and must forward the file for a second time to the appropriate jurisdictional field office. Last spring, the NBC stated that it was trying to move towards a jurisdictional adjudication where interview-waiver I-485s would initially be forwarded to the appropriate jurisdictional field office for adjudication. Do you have any update to this initiative?

Follow up question from 5/5/17 meeting: Is there a way to notify the applicant/attorney when Interview Waivers are shipped from the NBC to the field?

The NBC is looking into this matter.

K-1 Beneficiaries and Matter of Sesay

18. In *Matter of Sesay*, the BIA found that a K-1 beneficiary who married the K-1 petitioner after entry into the U.S. within 90 days, but subsequently divorced the petitioner, can still adjust status based on the original K-1 marriage if an I-864 was filed by the K-1 Petitioner and the beneficiary can prove that the marriage was bona fide.⁶
- a. Assuming the marriage was *bona fide* and the K-1 Beneficiary maintained a signed copy of the Form I-864 that was filed with the first adjustment of status application package, if the K-1 Beneficiary filed a second adjustment of status application, again based on his/her previous bona fide marriage within 90 days of admission to the K-1 Petitioner, is there a requirement that the Form I-864 be the current version of the form?

NBC adjudicates these cases consistent with USCIS guidance and regulations. It is true that divorce on its own does not end the Form I-864 obligation. But 8 CFR 213a.2(a)(1)(v)(A) requires that that “the ... immigration officer ... determine the sufficiency of a Form I-864 ... based on the sponsor’s ... reasonably expected household income in the year in which the intending immigrant filed the application for ... adjustment of status ... and the Poverty Guidelines in effect when the intending immigrant filed the application for ... adjustment of status” and 8 CFR 213a.1(a)(v)(B) which provides, in part, “if more than one year passes between filing of the affidavit of support and adjustment of status interview, and the adjudicator determines, in the exercise of discretion, that the particular facts of the case make submission of additional evidence necessary to the proper adjudication of the case, the adjudicator may direct the applicant to submit additional evidence.” It would not be unreasonable for an adjudicator to determine that a previously executed I-864 is no longer probative of an I-129F petitioner’s current intention to support the beneficiary, if the petitioner and beneficiary divorced subsequent to the petitioner’s execution of the I-864.

⁶ *Matter of Sesay*, 25 I&N Dec. 431, 437–38 (BIA 2011); 8 CFR 2132(b)(1).

Of course, any Adjustment of Status applicant who has earned, or who can be credited with, 40 quarters under the Social Security Act, may file an I-864W in lieu of the I-864 from the I-129F petitioner.

Form I-864, Affidavit of Support

19. AILA members have reported erroneous RFEs requesting a joint sponsor to complete a Form I-864 in cases where evidence of significant assets has already been provided with the I-130 Petitioner/Sponsor's Form I-864, including cases in which assets exceed either 3 to 5 times the required poverty guideline amount, as appropriate. The RFE often states: "Based on the documents submitted with Form I-864, Affidavit of Support, for the petitioner/sponsor, the income did not meet 125% (100% if military) of the poverty guideline for the petitioner/sponsor's household size. Submit evidence from a qualifying joint sponsor . . ." What is the best way to ensure that, where evidence of assets is being used, the NBC adjudicator takes such evidence of assets into consideration before issuing an RFE requesting a Joint Sponsor (*See e.g.* MSC1690521048)?

Ensure that Part 7 of Form I-864 is completed and provide evidence of the value of the assets, including proof of ownership and the basis for the claimed net value of each asset. The supporting evidence must be sufficient to establish that the monetary value of the asset could reasonably be made available to support the sponsored immigrant without undue harm to the sponsor or family members. (See Form I-864 Instructions, p. 12).

20. When the NBC issues an RFE requesting evidence of assets, the RFE template states that evidence of assets includes "[b]ank statements covering the last 12 months (statements will be averaged over a 12 month period) or a statement from an officer of the bank or other financial institution in which the sponsor has deposits, the account balance averaged over a 12 month period, and current balance." There is no regulation or statement in the Form I-864 Instructions requiring that 12 months of bank statements be provided. AILA requests that the NBC revise the RFE template be revised to reflect what is required by regulation at 8 CFR § 213a.2(c)(2)(iii)(B) ("The sponsor may submit evidence of the sponsor's ownership of significant assets, such as savings accounts, stocks, bonds, certificates of deposit, real estate, or other assets. . . .") and in the Form I-864 Instructions ("Only assets that can be converted into cash within one year and without considerable hardship or financial loss to the owner may be included. The owner of the asset must include a description of the asset, proof of ownership, and the basis for the owner's claim of its net cash value.") (*See e.g.* MSC1790790042).

NBC follows the interoffice memorandum AD06-20 issued on June 27, 2006 which was effective on July 21, 2006 and later consolidated into Adjudicator Field Manual (AFM) Chapter 20.5. This memo further defines evidence of asset as "... In each instance, the evidence should establish the location, ownership, and value of each listed asset, including any liens or liabilities for each listed asset. Evidence of assets includes, but is not limited to:

- **Bank statements covering the last 12 months, or a statement from an officer of the bank or other financial institution in which the sponsor has deposits, including deposit/withdrawal history for the last 12 months, and current balance; Evidence of ownership and value of stocks, bonds, and certificates of deposit, and dates acquired;**
- **Evidence of ownership and value of other personal property and dates acquired; and**
- **Evidence of ownership and value of any real estate and dates acquired.**

Form I-765, Application for Employment Authorization

Elimination of 90 Day Adjudication Requirement

21. On November 18, 2016, DHS revised 8 CFR §274a.13(d), removing the requirement that, with certain limited exceptions, Form I-765 be adjudicated within 90 days of receipt.⁷ What is the NBC's goal for processing for first-time Form I-765 applicants under category (c)(9)?

NBC's goal is to continue to adjudicate first time I-765s (c)(9) within 90 days of receipt.

I-765 Under Category (c)(10)

22. 8 CFR §274a.12(c)(10) provides that an individual in the following class must file for employment authorization: "An alien who has filed an application for suspension of deportation under section 244 of the Act (as it existed prior to April 1, 1997), cancellation of removal pursuant to section 240A of the Act, or special rule cancellation of removal under section 309(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, enacted as Pub. L. 104-208 (110 Stat. 3009-625 (as amended by the Nicaraguan Adjustment and Central American Relief Act (NACARA)), title II of Pub. L. 105-100 (111 Stat. 2160, 2193) and whose properly filed application has been accepted by the Service or EOIR."

AILA members have reported receiving numerous RFEs and denials in response to Form I-765 applications submitted under category (c)(10) where (a) the Form I-765 applicant is in removal proceedings and (b) the applicant has fee'd in an application for Cancellation of Removal (Form EOIR-42B) USCIS prior to the court case being administratively closed by the Immigration Court. Specifically, the NBC has been requesting a court-stamped copy of the EOIR-42B application and has been denying the I-765 where proof of the I-485 Receipt Notice from USCIS has been submitted to the NBC with the I-765 or in response to an RFE.

- a. Does NBC not accept the I-485 Receipt Notice as evidence that the application has been accepted by the Service (USCIS) in light of the (c)(10) regulation which requires evidence that the "application has been accepted by the Service *or* EOIR"?

An applicant requesting relief or protection from removal from an Immigration Judge must file the application with the Immigration Court in advance of an upcoming hearing, or at a hearing. 8 CFR 1240.20; see also, The EOIR Immigration Court Practice Manual, Chapter 3.1(b), Filing with the Immigration Court. However, as

⁷ See 81 FR 82398, 11/18/16.

noted in the Pre-Order Instructions provided to such individuals during removal proceedings, for all applications other than Form I-589, the applicant must first submit a clear copy of the completed application form, along with all relevant fees, to USCIS. USCIS creates a fee receipt notice, as well as an appointment notice to appear at an Application Support Center for the collection of biometrics. Once the applicant attends the biometrics appointment, the applicant should file the original application form, all supporting documents, and the USCIS fee notice with the Immigration Judge.

Please know that the fee receipt notice shows that the applicant has paid the requisite fee, but it does not show that the applicant has filed the application with the Immigration Court as required by 8 CFR 1240.20. Because the applicant is not authorized to apply for employment authorization until he or she has filed the original application with the Immigration Court, the applicant must present proof that the original application was, in fact, filed with the Immigration Court.

b. Besides a court-stamped copy of the application, is any other evidence acceptable?

Yes. The NBC has ongoing exchanges with our partners at ICE and EOIR regarding these matters. Aside from the court-stamped copy of the application, other types of acceptable evidence for a properly filed EOIR-based application are (not an all-inclusive list):

- **EOIR based form evidence packet for Cancellation of Removal hearing with an official EOIR date stamp on the cover page or evidence list page, or**
- **EOIR based form evidence packet for Cancellation of Removal hearing with stamp(s) from the Immigration Judge that is dated and signed or initialed by the Judge or court representative, or**
- **Legally recognized letterhead of Immigration Court that provides date and court location of the filing.**

Preference Category "Opt-Out"

23. When the Petitioner of an I-130 Family Based 2nd Preference (F2B) petition naturalizes, the preference category is automatically converted from F2B to Family Based 1st Preference (F1). Section 6 of the Child Status Protection Act (CSPA) allows the petition beneficiary to “opt-out” of this automatic conversion, allowing the beneficiary the option of returning to FB-2B when a more advantageous cutoff date is available.

If a beneficiary’s priority date is current in the F2B preference category, but the preference category has automatically converted to F1, can the beneficiary’s written request to “opt-out” of the conversion from F2B to F1 be simultaneously submitted with their application for adjustment of status?

Yes, they can submit a written request to “Opt-Out” of the automatic conversion along with their adjustment of status application. It’s recommended, if the applicant is represented by an attorney, that the request be identified on the attorney’s cover letter. Also, the applicant should remind the officer at the time of interview of their Opt-Out” request. The request will be taken into consideration at the time of the interview.

Furthermore, for adjustment of status filings for applicants opting out of automatic conversion, we recommend that the I-485 application be completed with a selection in Part 2, Application Type, block H, with an explanation provided stating ‘Child Status Protection Act (CSPA)’ or just ‘CSPA’. In that case, if otherwise acceptable, the filing will be accepted by the Lockbox without review for the availability of a visa.

Form I-360, Special Immigrant Juvenile Petitions

24. Please provide Form I-360, Special Immigrant Juvenile (SIJ) Petition, statistics for FY2017 to date, including the number of receipts, approvals, denials, Requests for Evidence (RFEs) issued, and approvals after RFEs.

Received	9249
Approved	1294
Denied	21
RFEs issued	1915
Approvals after RFEs	NBC does not capture this information

25. What is the NBC’s current processing time for Form I-360 SIJ Petitions?

The current processing time for the SIJ I-360 is generally within 180-days.

26. What are the most common reasons that the NBC issues RFEs for Form I-360 SIJ Petitions?

The most common reason that the NBC issues RFEs for an SIJ based Form I-360 is when the juvenile court order lacks sufficient information. If the juvenile court order, or other supporting documentation, does not include the factual basis or there is concern about the validity of the order, an RFE may be necessary.

27. What are the most common reasons that the NBC denies Form I-360 SIJ Petitions?

The most common reason is for abandonment of the petition.

28. Please provide the number of SIJ Petitions the NBC has forwarded to the local USCIS Field Offices for interviews?

NBC has forwarded 1 case to the field office for interview.

29. Please provide the criteria that the NBC is relying on in order to determine whether interviews are necessary to adjudicate SIJ Petitions.

The NBC conducts a full review of the petition and supporting evidence to determine whether an interview may be warranted and generally will not forward cases for interview if the record contains sufficient evidence to approve the petition and adjustment application without an in-person assessment. NBC is not able to provide a list of specific criteria used to determine whether an interview is necessary.

30. Since the NBC started processing SIJ Petitions, has the NBC encountered any technical issues related to the processing of these Petitions?

It is unclear what is meant by “technical issues.” Please clarify.

31. Does the NBC have any best practices or tips for organizing or submitting Form I-360 SIJ filings?

- **Ensure that the factual basis for the juvenile court’s finding is included in the court orders, or is adequately reflected in corroborating court documents.**
- **The state law basis must be included if it is not abuse, neglect etc. Orders must be issued under state law to be valid and should not cite to or rely upon immigration law or regulations.**
- **Ensure the Form I-360 is thoroughly completed. Many times pages are skipped or questions not answered.**
- **If a copy of the Form I-360 is attached when filing the Form I-485 please label the I-360 as a COPY.**
- **If filing concurrently please submit the fee for the Form I-485 or a fee waiver request (Form I-912) or the Form I-360 may be rejected.**

Follow up question from 5/5/17 meeting: Are there filing tips for filing SIJ Fee Waivers?

A special immigrant juvenile is eligible to request a fee waiver of the filing fees for an I-485 application, I-765 application, I-601 application, or I-290B form. Along with a stated request for fee waiver, signed by the applicant, or an I-912, Request for Fee Waiver, signed by the applicant, evidence that would support a request for fee waiver filed by a special immigrant juvenile includes any of the following:

- **A recent state or juvenile court order establishing dependency or custodial assignment of the SIJ; or**
- **A letter from a foster care home or similar agency overseeing the SIJ’s custodial placement that describes the SIJ’s inability to pay; or**
- **An approval notice on a Form I-797, Notice of Action, for a Form I-360, filed for the SIJ, or**
- **A concurrently filed I-360 petition or I-797 receipt notice for an I-360 filed for the SIJ. (Please see AFM 10.9(a)(3) and AFM 10.9(b)(2))**

It is helpful to clearly state in the attorney’s cover letter and request for fee waiver that the applicant is filing as a special immigrant juvenile.

For standalone I-765 submissions, if a special immigrant juvenile’s I-485 application was fee waived, he or she would be expected to pay the \$410 filing fee or provide an approvable request for fee waiver with their I-765 application. When filing a standalone I-765 application for a special immigrant juvenile, to show that the

applicant is eligible to file as (c)(9), adjustment of status applicant, the filing should include a copy of the receipt notice for the applicant's pending I-485 application.

For the filing to be accepted without fee, it must also include either:

- A stated request for a fee waiver, signed by the applicant, or
- An I-912 form, signed by the applicant.

To support the approval of the applicant's request for fee waiver, the filing should include a copy of the I-797 receipt notice or approval notice for the applicant's I-360 petition or any of the other forms of evidence that would also support the approval of their request for fee waiver.

FURTHER FOLLOW UP QUESTIONS FROM 5/5/17 MEETING:

32. How should adjustment of status family packs be submitted in order to keep them together?

For a concurrent Adjustment of Status filing for a family, the applications should be mailed together in the same envelope with a secure clip around the applications and support documents for each applicant. As long as the applications are complete, acceptable, and have been received with the correct payment, the filing will remain together unless an applicant's address and last name are both different from the others received with the package. That applicant's filing would be processed separately by the Lockbox. In that case, once received, the applicant or their attorney would need to contact the USCIS National Customer Service Center to request that the separately received applications be processed with those received for the rest of their family.

There are a few common reasons that a family's applications may be split, with some accepted and others rejected. Most often, it is because a child's application was unsigned, or signed by a parent in the wrong part of the form, as a preparer instead of on behalf of the applicant, or because a child may now be over 21 years of age.

33. Look at updating overall filing tips (e.g. should G-28s be printed on blue paper, should I-130s be printed on yellow, etc.)

The NBC is reviewing the [Tips for Filing Petitions and Applications to the National Benefits Center](#) page on uscis.gov for appropriate updates.

34. If you file an I-130 with an I-130A, do you need to submit the G-325A with the I-485?

Please follow the current version of the Form I-485 instructions. The Form I-485 instructions currently state that an applicant must submit a completed Form G-325A if the applicant is between 14 and 79 years of age.

35. When are original signatures required? There are inconsistencies between memoranda and form instructions.

Policy Memorandum 602-0134, Signatures on Paper Applications, Petitions, Requests, and Other Documents Filed with U.S. Citizenship and Immigration Services, governs signature policies for benefit requests generally unless different signature requirements appear in the specific form instructions.