



U.S. Citizenship and Immigration Services

Form I-485

Overview of Adjustment of Status for Employment-Based (EB)
Immigrants



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and Immigration
Services

What is Adjustment of Status?

- Adjustment of status is a process that allows a person to become a Lawful Permanent Resident (LPR) without leaving the United States to obtain an immigrant visa at a U.S. Consulate or Embassy.
- Any immigrant classifications, including asylees, refugees, family-based (FB), employment-based (EB), and religious workers are eligible to apply for adjustment of status.
- Applicants file with USCIS using Form I-485, Application to Register Permanent Residence or Adjust Status.
- EB adjustment is governed by section 245 of the Immigration and Nationality Act (INA).



EB I-485 Overview

- EB adjustment of status is a discretionary benefit based on the principal applicant's intended permanent employment in the U.S. Congress sets the numeric limitations on EB visas, which are further divided into preference categories (for example, first, second, and third preference workers).
- An EB applicant for adjustment must be sponsored by a U.S. employer.
 - Employer files Form I-140, Immigrant Petition for Alien Worker, with USCIS.
 - Depending on the preference category and on visa availability, it is sometimes possible to concurrently file forms I-140 and I-485.
 - Some EB preference classifications require the employer to obtain a permanent labor certification from the U.S. Department of Labor before filing Form I-140.
 - Applicant may also self petition in limited cases.
- The applicant's spouse and children may also adjust as derivatives, if eligible, based on their family relationship.



Who Applies for EB Adjustment?

EB principal applicants approved in any of the EB or special immigrant visa categories:

- Individuals of extraordinary ability in the sciences, arts, education, business, or athletics (E11)
- Outstanding professors or researchers (E12)
- Multinational executives or managers (E13)
- Advanced degree professionals or individuals of exceptional ability in the sciences, arts, or business (E21)
- Professionals, skilled and other workers (E31, E21, EW3)
- Special immigrants such as religious workers (SR-1, SD-1)



EB I-485 Filing Overview

- Principal applicants (PA) and any dependents each file a Form I-485 with USCIS. EB families typically file together, though dependents may file after the PA. Families are processed together whenever possible. The PA must be adjusted (approved) first in order for dependents to be eligible.
- Most EB I-485s are filed by mail at USCIS lockbox facilities. The lockbox opens and date-stamps mail, processes fees, keys or scans documentation, issues receipt notices and resolves unsigned or bounced items. Once lockbox processing is complete, the cases are forwarded to the USCIS Service Centers (NSC & TSC) for adjudication. As a special note, I-485s may also be filed concurrently with the I-140 if a visa is available on the date of filing.
- NSC & TSC are “sister centers” that currently work all EB adjustment cases under a program called bi-specialization.



Processing Times for USCIS

- USCIS is committed to providing the best possible customer service before and after a case is filed.
- Cases are generally processed in the order in which they are received.
- Processing times are posted on the USCIS Processing Times website page at: <https://egov.uscis.gov/cris/processTimesDisplayInit.do>
- The Processing times information is updated around the 15th day of each month to reflect current processing times as of the previous full month.
- Processing time listed in months: The field office or service center is meeting its goal for processing that form
 - For example, if the office is processing Form N-400 naturalization applications in five months or less, then the chart will say "5 months."
- Processing time listed as a specific date: The field office or service center is experiencing a processing delay.
 - The date posted is the filing date of the last case that the office completed before updating the chart.



What do Applicants Send?

Form I-485 filing requirements are detailed in the form instructions. Generally, applicants are asked to:

- Complete all sections and blocks of all required forms
- Submit the correct fee* for the Form I-485 and biometrics (photo, signature, and fingerprints) processing
- Provide documentary evidence of their birth and parentage. Documents not in English must be accompanied by a certified English translation. Legible photocopies are acceptable.

* Filing fees and mailing addresses are subject to change. Fees also vary by age and adjustment program. It is best to consult the USCIS website (www.uscis.gov) for the most up-to-date forms, filing and fee information.



Additional Required Evidence

Eligibility for EB adjustment generally includes proof of the applicant's identity, entry to the U.S., immigration status, employment history, and a satisfactory medical examination. Each applicant must provide the following:

- A completed and signed Form G-325A, Biographic Information Sheet for applicants aged 14 to 79
- Proof of inspection and admission into the U.S.
- Proof of immigration status since entry
- A government-issued photo identity document, such as a passport
- A current job offer letter on company letterhead (for principal applicants)
- A Form I-693, Report of Medical Examination and Vaccination Record completed by a designated Civil Surgeon
- A copy of the receipt or approval notice for the principal applicant's Form I-140/I-360/I-526 visa petition.



Additional Required Evidence (Cont'd).

In addition, dependents must provide proof of their relationship to the PA. Primary evidence of relationship to the PA, includes primary evidence such as:

- Civilly-issued marriage, birth or adoption certificates

Or if they establish primary evidence is not available, acceptable secondary evidence per the regulations; a few examples of secondary evidence might be:

- School records
- Military records
- Religious documents
- Medical records



Adjudication

- Visa number is available for final case action.
- Eligible to adjust status vs. consular process.
- Valid job offer.
- No inadmissibility issues, for example:
 - Criminal.
 - National security.
 - Fraud.
 - Medical.
- Applicants found inadmissible must apply for and receive a waiver of inadmissibility.
 - Waiver must be authorized for the specific inadmissibility ground that applies.
 - Applicant must be eligible to apply for the waiver.
 - Waiver approval is discretionary.
 - Form I-485 cannot be approved unless the waiver is granted.



Approval

If all of the requirements are met, and an immigrant visa is allocated by the Department of State (DOS), the Form I-485 is approved. Upon approval, the applicant is mailed a Form I-551, Permanent Resident Card.

The date the Form I-485 is approved becomes the date of adjustment, which in turn determines how soon the newly adjusted Lawful Permanent Resident (LPR) may apply for U.S. citizenship.

Permanent Resident Cards are valid for ten years. However, those who adjust under the investor classification (i.e., Form I-526) are initially given a two year Conditional Resident Card; such applicants must file a Form I-829 at the end of the two years to remove the conditions and receive a Permanent Resident Card valid for ten years.



Denial

- If the applicant is found ineligible to adjust, USCIS will deny the Form I-485.
- USCIS will mail a decision to the applicant giving the reasons for the denial.
- Applicants have various avenues to pursue if USCIS denies their adjustment application. For example, if the applicant continues to have a nonimmigrant status (such as H-1B specialty occupation status or F-1 student status) in the U.S., the applicant may continue to remain in this nonimmigrant status.
- The applicant may also file a motion to reopen or a motion to reconsider the decision by filing Form I-290B along with the correct fee at the USCIS lockbox facility.
- If the applicant is placed in removal proceedings he or she may be able to renew their I-485 before an Immigration Judge.



Concurrently Filed I-140 & I-485

As previously mentioned, if visas are available, an applicant may file the I-485 concurrently with an I-140.

Because I-485 eligibility is based on an approved visa petition (e.g., I-140), USCIS has set in place specific policies concerning concurrent filings.

In cases where USCIS approves the concurrently filed I-140, USCIS will subsequently process the I-485 on a first in first out basis determined by the date the I-485 was filed.

In cases where USCIS denies the concurrently filed I-140, USCIS will also deny the I-485, if there is no other basis for adjustment of status. However, if the I-140 decision is later overturned and approved on a motion or an appeal, USCIS will reopen the I-485 on Service motion and resume processing of the I-485.



Interim benefits

An applicant awaiting a final decision on their Form I-485 may file for interim benefits:

- An Employment Authorization Document (EAD), which allows the applicant to work in the U.S. EADs may be valid for one or two years and are applied for using Form I-765.
- An advance parole or “travel document,” which permits the applicant to depart the U.S. temporarily while their Form I-485 is pending. Applicants, other than those who are currently in H, L, K or V status and who plan to return using an H, L, K-3/4 or V visa, must request the advance parole prior to leaving. Failure to do so constitutes abandonment of their I-485. Advance paroles are requested using Form I-131.
- “Combo Cards” which combine an EAD and advance parole into a single document.

More information on Forms I-765 and I-131, including the combo card, can be found at www.uscis.gov.



Available Resources

Statute: INA § 245

Regulations: 8 C.F.R. § 245.1

Precedent decisions

Adjudicator's Field Manual, Chapter 22

Policy Memos

Templates on the TSC ECN

Standard language on the TSC ECN

USCIS Systems such as:

EDMS, EDGE, VIBE, CCD, CLAIMS

Open Source information such as : Google; Secretary of State websites; State Bar...



Questions ???



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