



December 13, 2024

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Policy Alert

SUBJECT: Post-Adjustment Jurisdiction for INA 246 Proceedings

Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) to clarify guidance regarding jurisdiction over rescission of lawful permanent resident (LPR) status.

Background

Rescission proceedings serve the goal of removing a person's LPR status when USCIS determines that the person was not eligible for adjustment of status at the time LPR status was granted.¹ Applicants who were not eligible for adjustment of status at the time of their LPR grant are not eligible in the future for naturalization.² Upon rescission of their status, those applicants may seek to adjust status again, if eligible, and subsequently meet the eligibility requirement for naturalization under INA 318.

Under previous policy, the USCIS office with jurisdiction over the noncitizen's place of residence initiated the rescission process. However, USCIS' jurisdiction to rescind adjustment of status is not restricted to the office with jurisdiction over an applicant's place of residence. Specifically, DHS regulations do not limit the jurisdiction of USCIS field offices to initiate rescission proceedings to persons residing outside of a USCIS field office's district.³ Therefore, to reduce the need to transfer files between USCIS field offices, under this policy, any USCIS field office has jurisdiction to initiate rescission proceedings by issuing a Notice of Intent to Rescind (NOIR), with the exception of rescissions pursuant to a USCIS grant of suspension of deportation or special rule cancellation of removal.⁴

¹ See [INA 246\(a\)](#).

² See [INA 318](#).

³ See [8 CFR 246.1](#).

⁴ This policy does not apply to noncitizens who adjusted status pursuant to Section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), [Pub. L. 105-100](#), 111 Stat. 2160, 2196 (November 19, 1997), after a grant of suspension of deportation or a grant of special rule cancellation of removal. In these cases, the asylum office that issued the NACARA 203 grant initiates rescission proceedings and coordinates with the asylum office that has jurisdiction over the place of residence to determine next steps in the rescission process.

This guidance, contained in Volume 7 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Clarifies that any USCIS field office has jurisdiction to initiate rescission proceedings if a noncitizen was not eligible for adjustment of status at the time LPR status was granted.
- Clarifies that, in the cases of LPRs who adjusted status pursuant to the Nicaraguan Adjustment and Central American Relief Act (NACARA) after an asylum office granted suspension of deportation or special rule cancellation of removal, the asylum office that issued the grant initiates rescission proceedings and coordinates with the asylum office that has jurisdiction over the place of residence to determine the next steps in the rescission process.

Summary of Changes

Affected Section: Volume 7 > Part Q > Chapter 3 > Section A, Jurisdiction

- Revises first paragraph in its entirety.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 7: Adjustment of Status, Part Q, Rescission of Lawful Permanent Residence, Chapter 3, Rescission Process [[7 USCIS-PM Q.3](#)].