



U.S. Department of Justice
Immigration and Naturalization Service

HQ 70/6.2.8

425 I Street NW
Washington, DC 20536

November 20, 2001

MEMORANDUM FOR: All Service Center Directors
All District Directors
All Officers-in-Charge
Director, Administrative Appeals Office

FROM: Thomas E. Cook
Acting Assistant Commissioner,
Office of Adjudications

SUBJECT: Social Security Cards and the Adjudication of H-1B Petitions

The purpose of this memorandum is to provide field offices with guidance on the adjudication of H-1B petitions where the beneficiary is unable to obtain a state license because he or she is not in possession of a social security card.

Certain states require that an H-1B nonimmigrant be issued a social security card before the state or local licensing authority will issue a professional license to the alien to work in that jurisdiction. According to the regulations of the Social Security Administration (SSA), an H-1B alien is not able to obtain a social security card unless they are physically present in the United States. Some H-1B petitions in these cases have been denied because the alien beneficiary has not yet received his or her license.

Most recently, this issue has arisen regarding the adjudication of H-1B petitions filed for certain public high school teachers. In the case of the teachers, the Immigration and Naturalization Service (INS) has been receiving H-1B petitions filed on behalf of public school teachers that are not supported by the required license. The teachers are unable to obtain licensure solely because they cannot obtain a social security card because they are not physically present in the United States.

In order to avoid this situation and accommodate the needs of H-1B petitioners, INS officers involved in the adjudication of H-1B petitions are instructed to use the following guidance. An H-1B petition filed on behalf of an alien beneficiary who does not have a valid state license shall be approved for a period of 1-year provided that the only obstacle to obtaining state licensure is the fact that the alien cannot obtain a social security card from the SSA. Petitions filed for these aliens must contain evidence from the state licensing board clearly stating that the only obstacle to the issuance of state licensure is the lack of a social security card. In addition, the petitioner must establish that all other regulatory and statutory requirements for the occupation have been met. At the time an extension application is filed by the alien, the adjudicator should determine that the required license was obtained. If it has not been obtained at that time the application should be denied.

This procedure is consistent with the INS's past policies with respect to the adjudication of H petitions where the state licensing board would not issue a license unless the alien was physically present in the United States. INS officers should continue to approve H petitions that require state licensure when the only obstacle to obtaining the license is the alien's lack of physical presence.

Should you have any further questions about this memorandum, please contact the Adjudications Division Business and Trade Branch at 202-353-8177.