



## U.S. Citizenship and Immigration Services

# USCIS Updates Policy Guidance for Certain Requests for Evidence and Notices of Intent to Deny

WASHINGTON - U.S. Citizenship and Immigration Services (USCIS) today posted a [policy memorandum \(PDF, 113 KB\)](#) (PM) that provides guidance to USCIS adjudicators regarding their discretion to deny an application, petition, or request without first issuing a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) when required initial evidence was not submitted or the evidence of record fails to establish eligibility.

This updated guidance is effective September 11, 2018 and applies to all applications, petitions, and requests, except for Deferred Action for Childhood Arrivals (DACA) adjudications, received after that date. Due to preliminary injunctions issued by courts in California and New York, this new PM does not change the RFE and NOID policies and practices that apply to the adjudication of DACA requests.

“For too long, our immigration system has been bogged down with frivolous or meritless claims that slow down processing for everyone, including legitimate petitioners. Through this long overdue policy change, USCIS is restoring full discretion to our immigration officers to deny incomplete and ineligible applications and petitions submitted for immigration benefits,” said USCIS Director L. Francis Cissna. “Doing so will discourage frivolous filings and skeletal applications used to game the system, ensure our resources are not wasted, and ultimately improve our agency’s ability to efficiently and fairly adjudicate requests for immigration benefits in full accordance with our laws.”

The 2013 PM addressed policies for the issuance of RFEs and NOIDs when the evidence submitted at the time of filing did not establish eligibility. In practice, the 2013 PM limited denials without RFEs or NOIDs to statutory denials by providing that RFEs should be issued unless there was “no possibility” of approval. This “no possibility” policy limited the application of an adjudicator’s discretion.

The policy implemented in this guidance restores to the adjudicator full discretion to deny applications, petitions, and requests without first issuing an RFE or a NOID, when appropriate. This policy is intended to discourage frivolous or substantially incomplete filings used as “placeholder” filings and encourage applicants, petitioners, and requestors to be diligent in collecting and submitting required evidence.

USCIS will continue issuing statutory denials when appropriate without first issuing an RFE or NOID when the applicant, petitioner, or requestor has no legal basis for the benefit/request sought, or submits a request for a benefit or relief under a program that has been terminated.

If all required initial evidence is not submitted with the benefit request, USCIS, in its discretion, may deny the benefit request for failure to establish eligibility based on lack of required initial evidence. Examples of filings that may be denied without sending an RFE or NOID include, but are not limited to:

- Waiver applications submitted with little to no supporting evidence; or
- Cases where the regulations, the statute, or form instructions require the submission of an official document or other form of evidence establishing eligibility at the time of filing and there is no such submission. For example, an Affidavit of Support (Form I-864), if required, was not submitted with an Application to Register Permanent Residence or Adjust Status (Form I-485).

This PM updates Chapters 10.5(a) and 10.5(b) of the [USCIS Adjudicator’s Field Manual](#) and contains an “additional considerations” section. The policy in this “additional considerations” section is not new, and

is nearly identical to the policy contained in the superseded 2013 PM.

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