Please note that accepting or rejecting a benefit request is part of USCIS intake processing; it is not the approval or denial of the benefit request by an adjudicator. *(Added 10/26/2022)*

Q. What is the difference between the Dates for Filing chart and the Final Action Dates chart?

A. The Final Action Dates charts indicate when an applicant may be scheduled for a consular interview and when their case may be processed to completion by DOS or USCIS. Immigrant visa numbers can be authorized for issuance only for an applicant whose priority date is earlier than the Final Action Date for their category and country of chargeability (or the category is Current).

The Dates for Filing charts indicate when an application is within a timeframe justifying immediate action in the application process. Applicants for immigrant visas who have a priority date earlier than the Date for Filing for their category and country of chargeability (or the category is Current) may assemble and submit required documents to the DOS National Visa Center, following receipt of notification from the National Visa Center containing detailed instructions. For noncitizens interested in pursuing adjustment of status, USCIS may allow them to apply for adjustment based on the Dates for Filing chart. This is a monthly determination. and we announce this on our website. *(Added 9/15/2023)*

Family Members

Q. When is a derivative child's applicant age locked under the Child Status Protection Act, and how is that age calculated?

A. In the employment-based preference categories, a child's age under the Child Status Protection Act (CSPA) is the child's biological age at the time of visa availability less the amount of time that the underlying petition was pending, but only if the child sought to acquire status as a lawful permanent resident within one year of the date a visa is available. For more information about when a visa is considered available for CSPA purposes, as well as other details about CSPA, please see Volume 7, Part A, Chapter 7 of the USCIS Policy Manual.

Q. When USCIS adjudicates a principal applicant's adjustment of status application, does USCIS also adjudicate the adjustment of status applications of the dependent family members? What if dependent family members are not approved before priority dates move back?

A. USCIS makes every effort to adjudicate the principal and derivative family members at the same time, but this is not always possible. Two things that applicants can do to help USCIS adjudicate a family's applications together are:

- Providing as much of the information requested in the section of Form I-485 titled "Information About Your Immigrant Category" as possible; and
- Ensuring that all applications include the required evidence for each family member.

If we deem approvable a Form I-485 of a derivative family member and a visa number is not available based on the Final Action Dates chart in the Visa Bulletin at the time we make that determination, the application will remain pending until a visa number is available, DOS allocates a visa, and USCIS completes the adjudication.

Please note that when INA 203(d) states that a derivative family member "shall…be entitled to the same status, and the same order of consideration…if accompanying or following to join" the principal applicant, it means that a derivative has the same priority date (order of consideration) and same immigrant visa category as the principal applicant. It does not mean that the derivative spouse or child always receives a visa or adjusts status on the same date as the principal applicant. This is clear from the language about "accompanying or following to join," which allows a derivative to receive an immigrant visa or adjust status after the principal applicant. For more information about derivative applicants and "accompanying or following to join," please see Volume 7, Part A, Chapter 6 of the USCIS Policy Manual. *(Updated 03/22/2023)*

Q. If I applied for adjustment of status as a principal applicant, and my spouse applied as my dependent family member, but now visas are unavailable for us based on my petition but they are available based on a petition filed for my spouse, may we transfer our pending adjustment of status applications to her petition?

A. Yes. In a situation like this, where both spouses have one or more petitions that could serve as the underlying basis for their adjustment of status applications, they can request to transfer the underlying basis from a petition filed on behalf of one spouse to a petition filed on behalf of the other if the new immigrant visa category allows for dependent spouses. For example, the couple could not transfer to a petition filed in an immediate relative category where dependents are not permitted under the statute. This is different from cross-chargeability, which is when an applicant may benefit from the charging of their visa number to their spouse's or parent's country of birth rather than their own. For more information about cross-chargeability, please see the Allocation of Visa Numbers section on this page. *(Added 10/26/2022)*

Q. If I applied for adjustment of status as a principal applicant but my spouse or children did not apply at the same time as I did, may they apply for adjustment of status in the future?

A. Yes, if they are otherwise eligible. Derivative family members may accompany or follow to join a principal applicant and may apply for adjustment of status (or an immigrant visa) while the principal applicant's application is pending or after the principal applicant has become an LPR. However, the derivative family member must meet the eligibility requirements to file for adjustment of status, including that an immigrant visa is immediately available to them at the time they file their application. As a result, if a visa is no longer available to the family member due to retrogression or the application of a Final Action Date, they must wait for a visa to again become available before they are eligible for adjustment of status. If the principal beneficiary becomes an LPR and loses their LPR status or naturalizes before the derivative family member's adjustment of status, the derivative is no longer eligible for the classification as an accompanying or following-to-join family member. A family member may be eligible for LPR status as the spouse, child, or adult son or daughter of a U.S. citizen. *(Added 9/15/2023)*

Transfer of Underlying Basis

Q. What is a transfer of the underlying basis of an adjustment of status application?

A. An adjustment of status applicant whose application is based on a particular immigrant category occasionally prefers to have the pending application considered under another category. For

example, an applicant who applied for adjustment of status concurrently with an employment-ba petition in one preference category may want to transfer the underlying basis of their Form I-485 t new employment-based petition filed by a different employer in a different preference category. There is no fee associated with submitting a request to transfer the underlying basis of your Form I-485, and you do not have to submit a new adjustment of status application with your transfer request. You may also transfer the underlying basis of your Form I-485 from the new petition back to your original petition, or to another petition, by submitting a new transfer request. For more information about transferring the underlying basis of your adjustment of status application, see Volume 7, Part A, Chapter 8 of the USCIS Policy Manual. *(Added 03/22/2023)*

Q. How does the transfer of underlying basis request process work?

A. We have created a centralized location for the receipt of transfer of underlying basis requests between the employment-based preference categories that are accompanied by a Form I-485 Supplement J. You may submit your written request and completed Supplement J to:

U.S. Postal Service (USPS):

USCIS
Attn: Supp J
PO Box 660834
Dallas, TX 75266-0834

FedEx, UPS, and DHL deliveries:

USCIS
Attn: Supp J (Box 660834)
2501 S. State Hwy. 121 Business
Suite 400
Lewisville, TX 75067-8003

You should only send transfer requests accompanied by a Supplement J to this address. Do not send other forms, documents, or evidence to this address.

Employment-based transfer requests that are not accompanied by a Supplement J should be submitted in writing to the USCIS office with jurisdiction over your pending I-485 application.

If you have already submitted a transfer request to a USCIS office, you should not submit a new request. All requests to transfer the underlying basis already received or that will be received at a USCIS office will be processed as usual by the USCIS office with jurisdiction over your pending Form I-485.

For transfer requests accompanied by Supplement J submitted to this address at the Dallas Lockbox, we scan the documents, upload the Supplement J information into our systems (generating a receipt notice), and notify the office or service center that currently holds the related adjustment of status application that the scanned request is available in our electronic systems. A USCIS officer reviews the transfer request and will grant or deny the request as a part of the adjudication of the adjustment of status application.

A receipt notice does not mean that USCIS has granted the transfer request, it just indicates that USCIS has uploaded the Supplement J information into our systems. USCIS does not notify the

applicant when it grants a transfer request. *(Updated 10/26/2022)*

Q. How does a transfer of underlying basis request affect the calculation of a child's age under the Child Status Protection Act (CSPA)?

A. As stated in Volume 7, Part A, Chapter 7 of the USCIS Policy Manual, "[i]f an applicant has multiple approved petitions, the applicant's CSPA age is calculated using the petition that forms the underlying basis for the adjustment of status application." When we approve a request to transfer the underlying basis of the pending adjustment of status application, we calculate the CSPA age using the approved petition that forms the new basis of the adjustment application. If we transfer an applicant's underlying basis, then we calculate an eligible applicant's CSPA age using the applicant's age at the time the immigrant visa becomes available in the new category minus the time the immigrant petition that forms the new basis of the adjustment of status application was pending. *(Updated 03/22/23)*

Q. If the immigrant visa petition underlying my pending adjustment of status application has not been adjudicated, will this prevent me from transferring the basis to a different petition?

A. No. If you have a pending petition, that does not prevent us from granting a request to transfer the underlying basis of your pending Form I-485 to a different Form I-140.

Q. Why must applicants request to transfer the underlying basis of their pending Form I-485? Why does USCIS not review its records and make the decision for the applicants?

A. The decision to grant a transfer request is made in the discretion of USCIS. If we grant the transfer request, we will adjudicate the Form I-485 application based on the petition to which the Form I-485 was transferred. If we do not grant the transfer request, we will adjudicate the Form I-485 application based on the petition associated with the Form I-485 application prior to the transfer request.

We do not presume to know whether an adjustment of status applicant would like to transfer their pending Form I-485 application from the petition on which it is currently based to a different petition. We require transfer requests to be in writing from the applicant to ensure that the record accurately reflects the basis on which the applicant requests us to adjudicate the adjustment of status application.

To highlight the importance of applicants making this decision themselves and communicating it to us, here is an example. Consider a noncitizen with a pending Form I-485 who does not have an available visa based on the underlying petition. They have an older approved petition in a different preference category where a visa is available to them. However, the petition was filed over 10 years ago, and the noncitizen no longer has a relationship with the potential employer, or the employer may no longer exist or no longer be willing to employ the noncitizen. As a result, the noncitizen could not adjust status based on that petition.

Q. What happens when an EB-3 I-140 downgraded petition is pending and attached to a still-pending Form I-485? Is it true that the EB-3 I-140 does not have to be approved to allow a transfer of underlying basis of the Form I-485 to an approved EB-2 I-140 where the EB-2 priority date is earlier than the Final Action Date for the relevant category and country of chargeability?

A. A pending EB-3 petition in this scenario does not prevent USCIS from granting the applicant's request to transfer the underlying basis of their pending Form I-485 to a separate, approved Form I-140.

Q. If USCIS has granted my transfer of underlying basis request, does it mean that an immigrant visa has been allocated to me?

A. No, USCIS granting an applicant's transfer of underlying basis request does not mean that an immigrant visa has been allocated to the applicant. For more information about transfer of underlying basis, please see Volume 7, Part A, Chapter 8 of the USCIS Policy Manual. *(Added 10/26/2022)*

Q. If USCIS grants my transfer of underlying basis request, will USCIS consider my eligibility for adjustment of status on both bases? For example, if I applied for adjustment of status based on an EB-3 petition and USCIS granted my transfer request to an EB-2 petition, will USCIS consider my eligibility on either petition?

A. No, if USCIS grants an applicant's transfer of underlying basis request, USCIS will only adjudicate the adjustment of status application on the most recently granted transfer request. If an employment-based adjustment of status applicant wants to transfer to another basis, they must submit a new transfer request. In this example, USCIS would only consider the applicant's eligibility for adjustment on the basis of the EB-2 petition, unless the applicant again requested a transfer to a third basis. *(Added 10/26/2022)*

Filing and Processing Questions

Q. If I am applying for adjustment of status, should I submit Form I-693 with my Form I-485?

A. USCIS strongly encourages adjustment of status applicants to submit Form I-693, Report of Immigration Medical Examination and Vaccination Record, with their Form I-485, Application to Register Permanent Residence or Adjust Status. Doing so will help limit the need for USCIS to send Requests for Evidence, reduce processing times, and aid USCIS as it works with DOS to use all available visas. (*Updated 12/8/2023)*

Q. If I did not file a Form I-693 with my pending Form I-485, should I send one in now or wait for USCIS to request it, and why?

A. Noncitizens with pending adjustment of status applications should not send an unsolicited Form I-693 to us. Given the rapid movement of files between directorates and offices as we strive to optimize resources across the agency, it would be difficult to match an unsolicited Form I-693 with the related adjustment of status applications in a timely and efficient manner. This could delay the adjudication of adjustment of status applications while Forms I-693 are matched up to adjustment applications. We are proactively identifying employment-based adjustment of status applications with available visas that lack a valid Form I-693 and contacting applicants directly to request that form.

If your underlying petition is approved and a visa is available to you, but you know that your previously filed Form I-485 does not have a valid Form I-693, it will help USCIS use the available visas and adjudicate your application if you visit a civil surgeon and have a valid Form I-693 on hand when we send the request to you.

Q. My immigrant visa petition has been approved and I have a pending adjustment of status application. What happens next?

A. USCIS transfers adjustment of status applications in the first three employment-based preference categories from the Texas Service Center (TSC) and Nebraska Service Center (NSC) to the National Benefits Center (NBC) after the approval of the petition. The Field Operations Directorate will adjudicate the adjustment of status applications. (*Updated 12/8/2023*)

Q. Under what circumstances does the National Benefits Center (NBC) adjudicate employment-based adjustment of status applications?

A. The NBC is responsible for the final adjudication of EB I-485s that have been reviewed by an officer in the field or at a service center where the case is eligible for approval but for the fact that the visa is unavailable. Cases meeting this criterion are referred to as "regressed visa cases." Regressed visa cases are sent to the NBC where a review is conducted to ensure information is properly captured in USCIS systems, the records are complete, and to confirm the visa is unavailable. When a visa becomes available (either through a Visa Bulletin update or through a change of visa classification to one with an available visa) and DOS has allocated an immigrant visa number, NBC will adjudicate the case to completion.

Additionally, in other contexts and under certain conditions, if a case is located at the NBC and meets the interview waiver criteria, the NBC may adjudicate to completion. Examples of other instances in which the NBC may adjudicate a Form I-485 to completion include cases reopened on service motion where the denial was issued by NBC, cases associated with litigation, or other time sensitive cases.

Q. My employment-based adjustment of status application is currently at the TSC or NSC. Do the published processing times for the TSC or NSC show how long it will take to process my application?

A. The TSC and NSC are responsible for adjudicating employment-based petitions. Upon approval of the petitions, adjustment of status applications in the first three employment-based preference categories are then generally sent to the NBC and are adjudicated by the Field Operations Directorate. Only a few adjustment applications in EB-1, EB-2, and EB-3, usually with complex fact patterns and extended procedural histories, will remain at TSC and NSC for adjudication. Since very few adjustment applications in the first three employment-based preference categories are being adjudicated at the TSC and NSC, while those service centers are actively adjudicating EB-4 adjustment applications, the published processing times for adjustment of status applications at those service centers do not provide applicants in those first three categories with relevant information to estimate how long it will likely take to process their applications. If you have a pending employment-based adjustment of status application in the first three categories, the agency-wide fiscal year to date median processing time, available on uscis.gov at Historic Processing Times, would be the most relevant processing time information.

Q. Will my application for adjustment of status be processed faster if I submit my employment-based petition separately and then submit the application for adjustment of status the following day?

A. No. Before the adjudication of an application for adjustment of status, the underlying employment-based petition must first be approved at the TSC or NSC. Applications filed for adjustment of status in the first three employment-based preference categories are sent to the NBC

with their approved underlying employment-based petitions as part of the adjudication process, whether they are filed separately or concurrently. An adjustment of status application sent to the NBC cannot be adjudicated until the employment-based petition at the TSC or NSC has been adjudicated. For this reason, submitting the employment-based petition separately from the adjustment of status application does not result in an applicant receiving an earlier decision on their Form I-485.

Q. If I have more than one pending application for adjustment of status, and USCIS approves one of them, what does it do with the others?

A. If a noncitizen has become a lawful permanent resident, USCIS would deny any other pending adjustment of status applications. *(Added 10/26/2022)*

Q. What does a "Case Remains Pending" message mean in the USCIS Case Status Online tool and is USCIS proceeding with the adjudication of applications displaying this message?

A. A "Case Remains Pending" message in the USCIS Case Status Online tool indicates that an officer reviewed the application and determined that it could not be approved on that date because DOS could not allocate a visa number. Once a visa number can be allocated, USCIS will resume the processing of the application but not every action that USCIS takes on an application results in a change in the message displayed in the online case status. If the applicant has submitted a transfer of underlying basis request, USCIS will continue processing that request and moving the application forward in the adjudication process. *(Updated 03/22/2023)*

Q. Why do some adjustment of status applicants see the status of their applications change to "Case Was Updated to Show Fingerprints Were Taken" in the USCIS Case Status Online tool when they had provided biometrics months earlier?

A. This notification is made automatically as a result of an internal update made to USCIS systems. For example, more than 100,000 applicants who had previously provided biometrics received this automatic update in October and November 2022 and some applicants continue to see such automatic updates. USCIS received these applicants' biometrics previously and still has them associated with their applications in its systems. If you received this notice as a result of the automatic update, your case will continue to be processed per standard procedures. *(Updated 12/8/2023)*

Q. Why do adjustment of status applicants who have lived in the United States for many years have to demonstrate that they are not inadmissible under the health-related grounds of INA 212(a)(1)?

A. USCIS may only adjust the status of a noncitizen to lawful permanent residence under INA 245(a) if the noncitizen demonstrates that they are "admissible to the United States for permanent residence." The statutory language relating to both adjustment of status and the health-related grounds of inadmissibility require USCIS to apply those grounds of inadmissibility to all adjustment of status applicants regardless of the number of years they have already lived in the United States in other statuses (with a limited exception for immunizations for certain adopted children 10 years of age or younger). USCIS cannot create a waiver or exemption from the health-related grounds of inadmissibility where Congress has not done so. *(Updated 10/26/2022)*

Q. Why does USCIS conduct interviews for employment-based adjustment of status applications when a visa is not currently available under the Final Action Dates chart in the V Bulletin?

A. USCIS conducts interviews for some employment-based adjustment of status applications even though a visa is not currently available under the Final Action Dates chart in the Visa Bulletin to ensure that USCIS can expediently approve those applications when a visa does become available and DOS has allocated an immigrant visa number. Visa availability is not the only consideration for the eligibility of an applicant for adjustment of status, and only after USCIS has determined in its discretion that an application is approvable do USCIS officers request a visa from DOS. In some cases, USCIS will issue written notices in the form of a Request for Evidence (RFE) to request initial or additional evidence to determine an applicant's eligibility for adjustment of status. By conducting interviews before a visa is immediately available, officers can address any eligibility concerns and issue an RFE, if needed. If the applicant fails to demonstrate eligibility for adjustment of status, or that the applicant merits a favorable exercise of discretion, USCIS can deny the application. If the application is approvable but for the lack of an available visa, when a visa becomes available and DOS allocates the visa, USCIS can approve the application without an additional delay.

Q. Some noncitizens, particularly in the employment-based preference categories, have multiple pending adjustment of status applications. Can USCIS identify these in its inventory, and do the agencies take these multiple applications into account when setting the dates in the Visa Bulletin?

A. Yes, we can identify multiple adjustment of status applications filed by the same noncitizen (whether as a principal applicant or a derivative applicant) and do take them into account when collaborating with DOS on the Visa Bulletin. In FY 2023, the volume of duplicate applications within the Final Action Dates established in the Visa Bulletin was very low and had no significant impact on the analysis. As of Oct. 2, 2023, of the pending employment-based adjustment of status applications with USCIS, approximately 3% were duplicates or multiple applications filed by the same noncitizen. For noncitizens chargeable to India, approximately 4% were duplicate applications. Narrowing it further to only EB-2 and EB-3 applications filed by noncitizens chargeable to India, approximately 5% were duplicate applications. Please note that these percentages apply to the entire inventory of pending employment-based adjustment of status applications with USCIS, not just those applications with available visas on Oct. 2, 2023. *(Updated 12/8/2023)*

Q. Does USCIS have a target value for employment-based adjustment of status inventory that carries over from one fiscal year into the next?

A. No, USCIS does not have a target value for its inventory of employment-based adjustment of status applications for the beginning of a fiscal year. While a reasonable volume of pending applications allows USCIS to maintain a steady pace of adjudications in the first quarter of a fiscal year, the volume that is pending merely reflects where applications may be in the multi-step adjudication process and general visa availability rather than the result of deliberately preparing inventory for the new fiscal year.

Q. Why does USCIS not adjudicate all pending adjustment of status applications where the applicants have available visas during a given month?

A. USCIS and its partners at DOS are committed to using all of the available employment-based visas during this fiscal year, as we are every year, but that visa use cannot happen within one month or

even one quarter given statutory (in particular the quarterly limit of 27% found in INA 201(a)(2)) and operational limitations. Generally, visas are available under the Final Action Dates chart to more noncitizens than DOS and USCIS can approve within a given month or quarter due to operational considerations. When setting the Final Action Dates, the agencies consider a variety of factors, including but not limited to:

- The potential that a certain percentage of applications will not be approved;
- Accounting for noncitizens who have multiple pending adjustment of status applications in different categories;
- Estimating and considering the number of family members who may decide to immigrate with the principal applicant;
- Considering where applications are in the adjudication process and how likely they are to result in visa use in the immediate future; and
- Adjustment of status applicants with multiple pending or approved immigrant visa petitions in different EB categories who may decide to transfer between categories based on which category seems most advantageous to them.

Q. I have a pending adjustment of status application based on an approved employment-based immigrant visa petition with an associated job offer. Must I work for the petitioning employer while my adjustment of status application is pending? Am I required to be working in the same occupational field as the job offer while my application is pending? Would a period of unemployment while my application is pending affect my eligibility for adjustment of status?

A. Noncitizens with pending adjustment of status applications are not required to work, or ever have worked, for their petitioning employer. An employer who petitions for a noncitizen worker is doing so prospectively. In other words, by filing the I-140 petition, the prospective employer declares their desire and intent to employ the noncitizen upon the noncitizen becoming an LPR. The noncitizen who is the beneficiary of the petition is not required to work for the petitioning employer before the petition is filed, while the petition is pending, or while the adjustment of status application is pending. However, when applying for adjustment of status, the applicant must demonstrate that the employer still intends to offer them the job and that they intend to accept the job when they become an LPR.

The noncitizen is not required to be employed in the occupational classification of the prospective job while their adjustment of status application is pending in order to be eligible for adjustment of status based on the petition.

Finally, a noncitizen with a pending adjustment of status application based on a prospective job offer may be unemployed while their adjustment of status application is pending and, depending on the facts involved, may remain eligible for adjustment of status. However, a period of employment in an occupational classification different from the prospective job or a period of unemployment may affect a noncitizen's current immigration status and could raise doubts about the continued validity of the job offer and/or the noncitizen's intention to accept the offered position after adjustment. *(Added 9/15/2023)*

Q. I have a challenging relationship with my petitioning employer, and I am worried that they may withdraw the petition. What effect would the withdrawal of the petition have on my petition, priority date, and pathway to adjustment of status?

A. The petitioner may request to withdraw a Form I-140 at any time. However, if the petitioner requests to withdraw a Form I-140 that has already been approved for at least 180 days, or if an associated Form I-485 has been pending for at least 180 days, USCIS will not revoke the approved Form I-140 and the beneficiary will retain the priority date from the Form I-140.

If you already have a Form I-485 that has been pending for at least 180 days, you may be eligible for portability under INA 204(j) based on a new job offer in the same or similar occupational classification.

If you have not yet filed Form I-485 or your Form I-485 has not been pending for at least 180 days, while you retain the priority date from the approved petition you would need a different Form I-140 petition filed and approved on your behalf in order to adjust status under the employment-based first, second or third preference categories.

Note: You have a right to be protected from retaliation regardless of your immigration status; for more information visit: https://www.worker.gov/. Additional information regarding DHS support of the enforcement of labor and employment laws, including protection for noncitizen workers who report violations of labor law, may be found at DHS Support of the Enforcement of Labor and Employment Laws. *(Updated 12/8/2023)*

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Last Reviewed/Updated: 04/03/2024