AMERICAN IMMIGRATION LAWYERS ASSOCIATION

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New USCIS Policy on Green Card Applications Filed Within the United States (Adjustment of Status)

On May 21, 2026, U.S. Citizenship and Immigration Services (USCIS) issued a new policy memorandum that significantly changes how it will decide permanent residence (green card) applications filed inside the United States. If you have applied or are planning to apply for a green card through a process called "adjustment of status," this policy may affect you. You should speak to an attorney to determine whether this applies to you.

What Is Adjustment of Status?

Adjustment of status allows a person who is already inside the United States to apply for a green card without having to leave the country and apply at a U.S. consulate or embassy abroad. It is filed using Form I-485. For decades, adjustment of status has been a well-established pathway to a green card used by hundreds of thousands of people each year.

What Has Changed?

The new policy directs USCIS officers to treat adjustment of status as a benefit that is only granted in extraordinary circumstances and applying for a green card at a U.S. consulate or embassy abroad as the default process.

Under this policy:

- Meeting all the legal requirements for a green card is no longer enough on its own to have an adjustment of status approved.
- USCIS officers will now weigh positive and negative factors about your case before deciding whether to approve or deny your application.
- Simply having no negative factors in your record is not sufficient.

USCIS has signaled it may issue additional guidance targeting specific groups of applicants in the future.

Who Is and Is Not Affected

This policy applies to most adjustment of status applications, including family-based, employment-based, and diversity visa categories.

This policy does not apply to certain categories where adjustment of status is non-discretionary, meaning USCIS must approve the application if you meet the requirements. These include individuals admitted under:

- Refugee status
- The Nicaraguan Adjustment and Central American Relief Act (NACARA)
- The Haitian Refugee Immigration Fairness Act (HRIFA)
- The Liberian Refugee Immigration Fairness (LRIF) law

What Factors Will USCIS Consider?

Under this policy, USCIS will weigh both positive and negative factors in your case to determine whether you deserve to be granted a green card inside the United States. These include your immigration history; family ties in the United States; moral character; how long you have lived here lawfully; and any benefit you bring to the United States through your skills, employment, or contributions to your community. You will likely receive questions about why you cannot process at a consulate, including factors precluding consular processing, ties to family overseas, and why you did not return overseas after your stay expired.

Special Considerations for H-1B, L-1, or Other "Dual Intent" Visas

The new policy acknowledges that "dual intent" visa categories allow you to pursue a green card while maintaining your temporary status. However, it warns that being in a dual intent status alone is not enough to guarantee approval of your adjustment of status application.

How Can you Prepare?

Whether your adjustment of status is already pending or you are planning to file, an experienced immigration attorney can review your specific situation and advise you on how this new policy may affect your case.

USCIS has indicated it will issue further guidance on how this policy will be applied. This policy is also expected to be challenged in court. Your attorney can help you understand how any changes may affect your case.

Updated by Bilbao Law, October 2026 — *what has changed since AILA published this flyer (May 28, 2026):*

- **Still in effect:** As of November 23, 2026, the USCIS policy memo described in this flyer (PM-602-0199, May 21, 2026) is still in effect. A lawsuit filed October 5, 2026 (*AAUP v. Mullin*, D. Mass.) asks a court to block it, but no court has done so yet.
- **Cuban Adjustment Act:** Adjustment under the Cuban Adjustment Act is discretionary and is not on the list of exempt categories above, so this policy can affect Cuban applicants.
- **Public charge:** A new public charge rule replaced the 2022 rule on September 18, 2026. For green card applications filed on or after that date, USCIS may look more broadly at use of public benefits and other factors when reviewing your case.
- **Travel warning:** Under *Matter of Delcarmen-Lara* (Board of Immigration Appeals, August 13, 2026), leaving the U.S. on advance parole can now trigger the 3-year or 10-year bar for people who were unlawfully present in the past. Talk to a lawyer before you travel.

This flyer is intended for general information purposes only and does not constitute legal advice. You should not act or rely on any information in this flyer without seeking the advice of a competent, licensed immigration attorney. If you do not have an immigration attorney, contact Bilbao Law at (904) 300-0825, info@bilbaolaw.com, or bilbaolaw.com.

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Flyer last updated on May 28th, 2026.

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