



November 17, 2020

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Policy Alert

SUBJECT: Use of Discretion for Adjustment of Status

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating existing policy guidance in the [USCIS Policy Manual](#) regarding the discretionary factors to consider in adjudications of adjustment of status applications.

Background

For adjustment of status, the applicant has the burden of demonstrating eligibility, including that a favorable exercise of discretion is warranted.¹ If the applicant otherwise establishes eligibility and USCIS finds the positive discretionary factors in a particular case outweigh the negative factors, the officer should exercise favorable discretion and approve the adjustment application. Conversely, if the negative factors outweigh the positive factors an exercise of discretion to deny is appropriate. USCIS considers the totality of the circumstances, which may include factors such as an applicant's conduct, character, family or other lawful ties to the United States, immigration status and history, or any other humanitarian concerns, to determine whether the applicant warrants a favorable exercise of discretion.

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

Policy Highlights

- Consolidates existing guidance on the privileges, rights, and responsibilities of lawful permanent residents.
- Clarifies the list of factors or factual circumstances for adjustment of status that officers consider when conducting a discretionary analysis.

Citation

Volume 7: General Policies and Procedures, Part A, Adjudications, Chapter 1, Purpose and Background [[7 USCIS-PM A.1](#)]; and Chapter 10, Legal Analysis and Use of Discretion [[7 USCIS-PM A.10](#)].

¹ See [INA 291](#).