

What Employers Need to Know About Employment-Based Green Card Interviews

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Based on President Trump's Executive Order 13780, "Protecting the Nation from Foreign Terrorist Entry Into the United States," USCIS has implemented a new policy to interview all employment-based adjustment of status applicants where the application was filed after March 6, 2017. For applications filed prior to that date, USCIS appears to be randomly selecting some applications for an interview.

USCIS Service Centers will continue to adjudicate the underlying I-140 petition. If the petition is approved, the case will be sent to the National Benefits Center, which will conduct pre-processing activities to ensure the case is "interview ready." If it is not interview ready, NBC will issue a Request for Evidence notice asking the applicant to address any deficiencies.

Once this step is complete, NBC will generate an interview notice with a scheduled interview date/time at the local USCIS office. Dependent spouses and children of the primary applicant will also have to attend an interview with USCIS, although it is our understanding that USCIS may waive interviews for children aged 14 or under. USCIS has stated that it will try to schedule families together, but this is not guaranteed.

The Interview Process

Although we are just now beginning this new interview process, here are some preliminary guidelines on what to expect to be asked about as part of the interview process:

- Intent to be permanently employed in the US
- Applicant's offered employment including job title, duties and current salary
- Applicant's educational background
- Applicant's admissibility, such as any arrests or issues related to status
- Any question related to information listed on the submitted form I-485/I-485J

In addition, dependents should expect an officer to inquire about the following:

- Questions related to the relationship to the primary applicant. Spouses should present original marriage certificate and children should present original birth certificates or custody/adoption paperwork.
- Questions related to the bona-fide nature of the relationship with the primary applicant. It is recommended to bring documentation that establishes the marriage, such as evidence of sharing the same residence, evidence of joint taxes/accounts/assets, evidence of children born after marriage, etc.

At the time of the interview, the I-140 Immigrant Petition should have already been approved by USCIS. It is our understanding that the USCIS officer conducting the interview at the local office will not re-adjudicate the I-140 petition. However, the interviewing officer may question the applicant regarding his or her education, experience and employment, and may determine the validity of the supporting documents submitted with the I-140 petition. Based on that inquiry, the USCIS officer has the authority to refer the underlying I-140 back to the Service Center for possible revocation based on information discovered during the interview.

What Employers Should Do Now

In light of these changes, we remind you to inform our office of any material changes to the applicant's underlying employment in the US, such as:

1. Change in job location
2. Change in job title, duties, or responsibilities (this includes promotion/demotion)
3. Change from full-time to part-time (or vice versa)
4. Corporate restructuring, such as a merger, acquisition, name change, or FEIN change
5. Reduction in salary
6. Termination of employment
7. Any arrest in the U.S. or abroad

It is also recommended that, if possible, you continue to extend the underlying non-immigrant status (e.g. H-1B, L-1, etc.) until the permanent residence has been approved. Finally, prepare for the interview by reviewing in detail the information and documentation submitted with the underlying I-140 Petition and I-485 Application.

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