NATIONAL IMMIGRATION PROJECT

Lawyers for the Movement

WHAT'S GOING ON WITH **ADJUSTMENT OF STATUS**

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ON MAY 22, 2026, United States Citizenship and Immigration Services (USCIS) issued a memo stating that they would only grant adjustment of status, meaning receiving a green card within the U.S., in "extraordinary circumstances." On May 29, a spokesperson from the Department of Homeland Security (DHS) downplayed the importance of the memo, saying that it was just a "reminder" to USCIS officers that they have discretionary authority, meaning the ability to deny or grant applications depending on how much the officer thinks the person deserves a grant. Whatever the government's intention was in issuing this memo, everyone is wondering how the adjustment process will change moving forward.

You may be confused about what all this means—this explainer will go over:

However, we may not fully understand the impact of the memo for some time.

WHAT IS **ADJUSTMENT OF STATUS?**

Adjustment of status is a way for a person who is eligible for a green card to apply for it and receive it from within the United States. Not everyone is able to adjust status; generally, only certain relatives of U.S. citizens can use the process because of complicated eligibility rules.

If a person cannot adjust status, then in order to receive a green card, they have to leave the U.S., return to their country of origin, and apply through the U.S. consulate there. That process is called "consular processing." In order to be eligible to adjust status, a person must have been admitted or paroled into the U.S., meaning that they got permission to enter the U.S. from DHS. There are also certain kinds of status (like Special Immigrant Juvenile Status, people who have received asylum, applicants under the Cuban Adjustment Act, and U and T visa recipients), where adjustment of status is the primary or only way to get a green card.

WHY IS **ADJUSTMENT OF STATUS IMPORTANT?**

People who have spent time in the U.S. without status face what are known as time bars, or penalties, if they leave the U.S. and try to re-enter. If a person has spent between 6 months and a year without status, they must wait 3 years before returning. If they have spent a year or more out of status, then they must wait 10 years before returning. Because the time bars are triggered when a person who previously spent between 6 months and a year without status leaves the U.S., they do not get triggered if the person is able to become a lawful permanent resident (LPR) by adjusting status without leaving, and within the U.S.

There is a waiver available for these time bars for some green card applicants, but applicants must still leave the U.S. and go through the U.S. consulate abroad, usually in their country of origin. Additionally, in order to receive the waiver, the applicant must show extreme hardship to a U.S. citizen or lawful permanent resident spouse or parent.

Once a person is abroad, they no longer have as many rights under U.S. law. People who get denied by consulate officials generally cannot go to court to get those decisions overturned, under a doctrine (judge-made law) called “consular nonreviewability.” Even if a person is granted a waiver, the consulate in their country of origin may decide not to grant them the visa, and there is very little they can do about it; they may not be able to return to the U.S. at all. Therefore, leaving the U.S. to pursue a green card always carries risks, and adjustment of status is the less risky option.

WHAT DOES **THE MEMO DO?**

The memo “remind[s]” USCIS officers that granting adjustment of status is discretionary—meaning they can decide to deny the adjustment of status application application if they believe that the applicant does not “deserve” it—and says that for people who could go through consular processing, adjustment of status should be granted only in “extraordinary” cases. The memo tells USCIS officers that violating immigration laws (like overstaying a visa, or working without authorization) is a negative factor that must be “offset” by positive factors. Positive factors—often referred to as “equities”—can include things like ties to the U.S., U.S. citizen or LPR relatives, and being a caregiver of a U.S. citizen or LPR (more examples below).

Reading between the lines, the memo is telling USCIS officers to deny more adjustment of status applications, especially when the applicant did not comply with immigration laws.

A memo is not a new law; this memo does not change the actual eligibility requirements for adjustment of status. However, it does tell us that USCIS will probably begin denying more applications for adjustment of status as a matter of discretion. Likely, the administration also put out this memo to make people afraid of applying to adjust status in the first place, which may make them vulnerable to ICE detention.

WHAT ARE **WE SEEING?**

Legal representatives who have attended adjustment interviews with their clients following the May 22, 2026 announcement have been sharing their experiences, and so far this is the best source we have on what to expect from the memo. These legal representatives report that USCIS officials conducting adjustment interviews are asking new questions that are not included on the adjustment of status application and taking sworn statements of the responses.

Whether the applicant is still in valid immigration status or their immigration status has expired, USCIS officials are generally asking the following questions:

Why did you apply for adjustment of status instead of consular processing?

Are there any factors or circumstances preventing you from consular processing at this time?

If the applicant's immigration status has expired, USCIS officials are asking these additional questions:

Why did you not leave the United States after your period of authorized stay expired?

Why did you not file an extension for your visa after you entered the United States?

Even if USCIS officials do not ask these questions during the adjustment interview, it is a good idea to be prepared to answer these questions.

Some legal representatives arrived at the interview prepared to provide additional information about the applicant's positive "equities," either by telling the officer about them or providing additional documents as evidence (an example would be a birth certificate for a U.S. citizen relative), and reported that the USCIS officials accepted this information, but did not make a decision at the time of the interview. Positive equities include family members in the U.S., length of time in one's community, owning property or a business, stable employment history, educational degrees received in the U.S., specialized skills, military service, community service, and paying taxes and child support when required.

For now, if you are planning to apply for adjustment of status, we recommend consulting with an immigration attorney or accredited representative.