USCIS General Information: A Guide to U.S. Immigration Procedures, Eligibility Requirements, and Current Processes

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FINDINGS

USCIS GENERAL INFORMATION: A COMPREHENSIVE GUIDE TO U.S. IMMIGRATION PROCEDURES, ELIGIBILITY REQUIREMENTS, AND CURRENT PROCESSES

This report provides an extensive overview of U.S. Citizenship and Immigration Services (USCIS) operations, procedures, and requirements for individuals seeking various immigration benefits in the United States. The research synthesizes current information regarding visa categories, eligibility criteria, application procedures, fees, processing timelines, and special relief options available as of February 2026. This guide is designed for immigrants, their families, employers, and legal representatives navigating the complex U.S. immigration system, with particular emphasis on Northern California immigration practice considerations. The report addresses critical areas including employment-based and family-sponsored immigration, temporary protected status, asylum procedures, deferred action programs, naturalization requirements, and the immigration consequences of criminal conduct. Understanding these foundational concepts, current fee structures, processing expectations, and strategic options is essential for individuals planning immigration-related decisions and managing their legal status in the United States.

Understanding USCIS and the Immigration System

The U.S. Citizenship and Immigration Services (USCIS) is the federal agency responsible for administering the nation's immigration benefits system and for making determinations on applications for various immigration benefits within the United States[1]. USCIS processes applications for adjustment of status (green cards), employment authorization documents, travel permits, family-based petitions, humanitarian relief, naturalization, and numerous other immigration-related benefits. Unlike the Department of State, which administers visa applications at U.S. embassies and consulates abroad, USCIS processes cases filed from within the United States and makes determinations on petitions submitted by employers, family members, or individuals themselves depending on the immigration category.

The immigration system operates through both affirmative and defensive pathways. The affirmative process allows individuals to apply for immigration benefits proactively, such as submitting an asylum application on Form I-589 with USCIS or filing for adjustment of status on Form I-485[1]. The defensive process occurs when individuals facing removal proceedings seek relief through the immigration court system. An individual might start in the affirmative asylum process by filing with USCIS, but if USCIS does not grant their application, they may be referred to immigration court to pursue their claim defensively before an immigration judge[1].

The Immigration and Nationality Act (INA), codified at 8 U.S.C. §§ 1101-1367, establishes the legal framework for all U.S. immigration law. The INA and its implementing regulations in 8 CFR provide the statutory requirements, eligibility criteria, bars to admission and deportation, grounds of removability, and the procedures by which USCIS and immigration courts adjudicate cases. USCIS Policy Manual guidance, issued by the agency and updated regularly, provides directives to officers on how to apply these regulations in practice. For many individuals and attorneys, understanding the interplay between statute, regulation, and policy guidance is essential to determining eligibility and strategizing applications.

Visa Categories and Eligibility Framework

The U.S. immigration system allocates approximately 226,000 family-sponsored preference visas and at least

140,000 employment-based preference visas annually[1]. These visa numbers are distributed according to preferences established in the INA, which prioritizes certain family relationships and employment categories. Understanding how many visas are available, which countries face backlogs, and what the current priority dates are is critical to planning an immigration strategy, as visa availability directly affects when an applicant can file certain applications or transition from temporary to permanent status.

Family-Sponsored Immigration

Family-sponsored immigration allows U.S. citizens and lawful permanent residents to petition for certain family members to immigrate to the United States. The family-sponsored system includes immediate relatives of U.S. citizens (spouses, unmarried children under 21, and parents of adult U.S. citizens) who are exempt from numerical limitations, and several preference categories for more distant relatives. The preference categories include F-1 (unmarried adult children of U.S. citizens), F-2A (spouses and minor children of green card holders), F-2B (unmarried adult children age 21 and older of green card holders), F-3 (married adult children of U.S. citizens), and F-4 (siblings of U.S. citizens)[1].

As of February 2026, family-based preference categories showed limited forward movement in visa availability. The F-2A category for spouses and minor children of green card holders advanced by one month across all countries, while the F-1 category for unmarried adult children of U.S. citizens advanced by three months for Mexican nationals specifically[1]. All other family-based categories remained unchanged, indicating that individuals in those categories may face extended waits before their priority dates become current and they can proceed with adjustment of status or consular processing applications.

The visa bulletin distinguishes between "Final Action Dates" and "Dates for Filing Applications." For adjustment of status applications filed with USCIS in the United States, applicants generally must use the "Final Action Dates" chart unless USCIS announces on its website that "Dates for Filing" may be used instead[1]. This distinction is important because it affects whether an applicant can file their green card application immediately upon petition approval or must wait until their priority date reaches the specified cutoff date.

Employment-Based Immigration

Employment-based immigration is divided into five preference categories, with an annual allocation of at least 140,000 visas plus any unused family-sponsored visas from the previous year. The EB-1 category includes individuals with extraordinary ability in sciences, arts, education, business, or athletics; outstanding researchers and professors; multinational managers and executives; and certain other specialized workers[2]. The EB-2 category includes individuals holding advanced degrees beyond the bachelor's degree and individuals with exceptional ability in their field; applicants in this category can pursue a National Interest Waiver (NIW) if they demonstrate that their work is in the national interest, which can waive the requirement for a job offer and labor certification[2][3].

The EB-3 category includes skilled workers with two years of experience in positions requiring at least two years of specialized training, professionals holding at least a bachelor's degree, and unskilled workers for which no qualified U.S. workers are available[2]. EB-4 includes special immigrants such as ministers and religious workers, certain government employees, and special immigrant juveniles[2]. EB-5 includes immigrant investors and entrepreneurs who invest capital in U.S. businesses that create jobs[2].

Employment-based immigration generally requires that the sponsoring employer file a Form I-140 Immigrant Petition for Alien Worker, unless the applicant is pursuing an EB-1 extraordinary ability petition (in which case the applicant can self-petition) or an EB-2 National Interest Waiver[2]. For most employment-based

categories, labor certification through the Department of Labor is required to demonstrate that no willing, able, and qualified U.S. workers are available for the position[2].

As of February 2026, employment-based categories showed relative stability, with modest movement in EB-3 skilled worker and professional categories, which advanced by three months for all other areas, Mexico, and the Philippines[1]. EB-1 experienced slight retrogression of two weeks for China and India applicants, while other employment-based categories showed no movement[1]. This data indicates that applicants in earlier preference categories may face shorter waits than those in later categories, and country-specific backlogs continue to affect processing timelines significantly.

Humanitarian and Special Immigration Programs

Beyond traditional family and employment categories, USCIS administers numerous humanitarian and special relief programs. Asylum provides protection to individuals who have suffered persecution or have a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group[1]. Individuals may apply for asylum affirmatively if they are not in removal proceedings, or defensively if they are already in removal proceedings before an immigration judge[1].

Temporary Protected Status (TPS) is a temporary immigration status provided to nationals of specifically designated countries facing ongoing armed conflict, environmental disaster, or other extraordinary conditions making it unsafe for nationals to return[4]. TPS allows beneficiaries to live and work in the United States for a temporary period and to travel abroad with advance parole, though TPS does not provide a direct pathway to permanent residency or citizenship[4]. Applicants must file Form I-821 with USCIS and can optionally file Form I-765 to request work authorization[4].

Deferred Action for Childhood Arrivals (DACA) is a temporary relief program that protects certain individuals who arrived in the United States as children from deportation and provides employment authorization[1]. To qualify, individuals must have been under age 31 as of June 15, 2012, arrived before turning 16, continuously resided in the U.S. since June 15, 2007, and meet educational or military service requirements[1]. DACA recipients may apply for advance parole travel documents on Form I-131 to travel abroad for educational, employment, or humanitarian purposes, though re-entry is not guaranteed and carries risk[1].

The Violence Against Women Act (VAWA) allows abused spouses, children, and parents of U.S. citizens or lawful permanent residents to self-petition for immigration benefits without the knowledge or consent of the abusive family member[3]. The U visa provides immigration status to victims of certain crimes who cooperate with law enforcement, and the T visa provides protection to victims of human trafficking[3]. These programs represent critical protections for vulnerable populations and are often overlooked in general immigration discussions.

The Immigration Application Process and Core Forms

The immigration process involves multiple stages and forms depending on the specific benefit sought. Understanding which forms are required, in what order they should be filed, and what documentation must accompany them is essential to submitting a complete and approvable application.

Form I-130: Petition for Alien Relative

For family-sponsored immigration, the process typically begins with Form I-130, Petition for Alien Relative, filed by a U.S. citizen or lawful permanent resident (sponsor/petitioner) on behalf of their family member (beneficiary)[2]. The I-130 establishes the qualifying family relationship and demonstrates the petitioner's

intent and ability to financially support the beneficiary. Required supporting documents typically include proof of the petitioner's citizenship or permanent resident status, documents proving the valid family relationship, and documents proving the relationship is not fraudulent (such as joint bank statements, lease agreements, photographs, or joint tax returns for marriage-based petitions)[2].

The processing time for Form I-130 varies significantly based on whether the applicant is an immediate relative of a U.S. citizen (exempt from numerical limitations and typically processed faster) or in a preference category. As of February 2026, Form I-130 processing times range from approximately 12 to 18 months for family petitions, though exact timelines depend on the USCIS service center processing the application and current workload[5].

Form I-485: Application to Register Permanent Residence or Adjust Status

Once the I-130 petition is approved (or for immediate relatives, concurrently with the I-130), applicants physically present in the United States may file Form I-485 to adjust status to lawful permanent resident (green card holder)[2]. The I-485 application packet includes the form itself, Form I-693 (Report of Medical Examination and Vaccination Record), Form I-864 (Affidavit of Support), and typically Form I-765 (Application for Employment Authorization) and Form I-131 (Application for Travel Document)[2]. Applicants must also submit proof of an approved underlying petition, evidence of admission or parole to the United States, copies of identity documents, birth certificates, and police clearance certificates from countries where they have resided.

Applicants for adjustment of status are eligible to file Form I-765 concurrently to request employment authorization while their green card application is pending, which provides work authorization and a physical Employment Authorization Document (EAD)[2]. Many applicants also file Form I-131 to request advance parole, which allows them to travel outside the United States and return while their adjustment application is pending[2]. Processing times for Form I-485 adjustment of status applications range from approximately 8 to 14 months as of February 2026, though some cases may experience delays lasting considerably longer[5].

Form I-693: Medical Examination and Vaccination Record

All applicants for adjustment of status must undergo a medical examination performed by a USCIS-designated civil surgeon and submit Form I-693, Report of Medical Examination and Vaccination Record[2]. The civil surgeon reviews the applicant's medical history, performs a physical examination, and verifies that the applicant has received required vaccinations or is immune to vaccine-preventable diseases. Required vaccinations include those for diseases that have been or are in the process of being eliminated in the United States, including measles, mumps, rubella, polio, tetanus, diphtheria, pertussis, hepatitis B, varicella, and meningococcal disease, with age-appropriate requirements[6]. As of January 22, 2025, the COVID-19 vaccine is no longer required for immigration medical exam completion, representing a significant change from prior requirements[6].

Applicants must provide the medical examination report in a sealed envelope directly to USCIS or include it with their adjustment of status application. USCIS will not reject an I-485 application if the medical examination is not initially included, as the medical exam is not considered "initial evidence," but applicants should be aware that USCIS may reuse biometric photos only if they were collected within the last three years[2]. If a civil surgeon signed the I-693 more than 60 days prior to submission, applicants should be prepared to address this timing issue, as USCIS previously issued guidance on temporarily waiving the 60-day rule[2].

Form I-864: Affidavit of Support

The Affidavit of Support, Form I-864, is a critical document in family-based immigration and represents a binding legal obligation. By signing the I-864, the sponsor (petitioner) agrees to use their own resources to financially support the visa applicant and any dependents if the applicant receives certain designated federal, state, or local means-tested public benefits[7]. The sponsoring government agency can request reimbursement from the sponsor for any benefits provided[7]. The sponsor must meet the minimum income level set by the Federal Poverty Guidelines, which vary by household size and state[7].

For most sponsors, the household size used to calculate the poverty guideline requirement includes the sponsor, the visa applicant, any dependents of either the sponsor or visa applicant, and any other individuals whose income or assets the sponsor relies upon to qualify[7]. As of 2026, the poverty guideline for a household of two is $26,437, and the requirement scales upward with each additional household member[7]. Sponsors who do not meet the income requirement may obtain a joint sponsor who also completes an I-864 and agrees to share financial responsibility[7].

If a sponsor's income alone does not meet the minimum, they may use household members' income or their own assets to supplement their income. The value of assets used to qualify must equal three times to five times the difference between the sponsor's income and 125 percent of the poverty level, depending on the category[7]. Acceptable assets include savings, stocks, bonds, and real estate (including the sponsor's home), but do not include the value of a personal automobile unless the sponsor owns multiple vehicles[7].

Current Fee Structure and Cost Implications (2026)

USCIS implemented updated filing fees effective January 1, 2026, representing an adjustment from prior year fees[1][5]. These fee increases affect the cost of filing for various immigration benefits and impact applicant decision-making regarding timing of applications. Applicants are advised to review updated fee schedules on the USCIS website and to budget accordingly when planning immigration applications.

The filing fee for Form I-485 (adjustment of status) and the associated USCIS immigrant fee vary depending on the applicant's age and category. Family-based applicants are not eligible for fee waivers and must pay the full filing fee[2]. However, applicants applying for adjustment of status under provisions exempt from the public charge ground of inadmissibility (such as refugees and certain asylees) may request a fee waiver on Form I-912, provided they submit supporting documentation of financial hardship[2].

Form I-130 petitions for family members require a filing fee, and Form I-140 employment-based petitions also require fees. Form I-131 (advance parole) filings carry their own fee; notably, as of October 16, 2025, USCIS implemented a new $1,000 parole fee for applicants requesting advance parole, which significantly increased the cost of traveling abroad while immigration cases are pending[1]. This fee represents a substantial increase from prior advance parole costs and affects DACA recipients and other applicants seeking to travel.

Form I-765 (employment authorization) applications filed concurrently with adjustment of status applications by certain categories (such as immediate relatives of U.S. citizens) may be filed without fee, but some applicants seeking work authorization must pay separate fees. DACA renewal applications include filing fees and optional Form I-765 economic need supplement form fees. Applicants should carefully calculate the total cost of their immigration application package before filing, as incomplete fee payments can result in application rejection.

Processing Times and Timeline Expectations

USCIS processing times vary significantly based on the form type, USCIS service center location, current

workload, and application complexity. As of February 2026, applicants can expect the following general timelines: Form I-130 (Family Petition) processing times range from 12 to 18 months; Form I-485 (Adjustment of Status) processing ranges from 8 to 14 months; and Form N-400 (Application for Naturalization) processing ranges from 10 to 14 months[5]. However, these are general estimates, and individual cases may be processed faster or experience significant delays.

The variation in processing times is substantial across different USCIS service centers. Some service centers consistently process applications faster than others, and workload fluctuations can cause delays extending cases well beyond the stated processing times[5]. Applicants can check estimated processing times for their specific service center by visiting the USCIS website and selecting their form type, form category, and field office location[5].

In Northern California specifically, USCIS service centers and field offices may experience varying timelines depending on location and current demand. Some immigration attorneys report that processing times in California locations range from three to four months for certain applications to cases exceeding seven months or approaching one year for applications stuck in the queue[1]. Applicants should proactively monitor their cases using USCIS online tools and maintain contact with USCIS to ensure their applications are progressing normally.

USCIS recommends submitting DACA renewal applications between 150 and 120 days before the current DACA approval expires, allowing sufficient time for USCIS to adjudicate the renewal before the current status expires[1]. Submitting renewal applications less than 120 days before expiration may result in a lapse in DACA status and employment authorization, creating a period of time when the individual is no longer protected from deportation and cannot legally work[1].

For individuals pursuing adjustment of status through marriage to a U.S. citizen, processing times may be somewhat faster than for other family categories, though no guaranteed timeline exists. Applicants should be aware that during the adjustment of status process, they must remain in valid status and not work without authorization unless they have filed Form I-765 and received employment authorization[2]. Breaking the chain of lawful status before adjusting or committing other violations of immigration law can result in bars to relief and may render an applicant deportable.

Adjustment of Status Versus Consular Processing

Applicants eligible to immigrate to the United States have two primary pathways to obtain permanent resident status: adjustment of status within the United States or consular processing abroad. The choice between these pathways depends on the applicant's current location, immigration status, and eligibility under specific legal provisions.

Adjustment of status is available to applicants physically present in the United States who meet eligibility requirements. For family-based immigration, immediate relatives of U.S. citizens can file Form I-485 concurrently with Form I-130, while spouses and children of green card holders must typically wait for priority date availability before filing Form I-485[2]. Applicants adjusting status must demonstrate that they were admitted or paroled into the United States and that they are not deportable. Employment-based applicants may adjust status if they are physically present and their priority date is current.

Consular processing is the pathway for applicants residing outside the United States or those ineligible to adjust status. After USCIS approves the I-130 petition or I-140 employment petition, the case is transferred to the National Visa Center (NVC), which processes the file and, when the priority date becomes current, sends

the case to the U.S. embassy or consulate in the applicant's country for visa interview and final adjudication[2]. Consular processing typically takes longer than adjustment of status because of the additional steps involved in processing through the NVC and consular posts.

For some applicants, direct consular filing may be available. "Exceptional circumstances," such as military deployment, urgent medical need, or imminent threat to personal safety, may qualify certain applicants for faster processing through direct filing with a U.S. consulate rather than routing through the NVC[2]. Not all U.S. consulates offer this option, and the State Department does not publish an official list of participating locations.

An important consideration for applicants in Northern California: those who entered the United States without inspection (between ports of entry or using false documents) cannot adjust status under the standard provisions unless they are immediate relatives of U.S. citizens. DACA recipients who entered without inspection cannot pursue adjustment of status and must pursue consular processing, which requires traveling to their home country for an immigrant visa interview[1]. This represents a significant barrier for DACA recipients and other applicants who lack entry documents.

Employment Authorization and Work Permits

Many applicants benefit from employment authorization while their permanent residence applications are pending. Form I-765, Application for Employment Authorization, allows USCIS to issue an Employment Authorization Document (EAD) that permits the holder to work for any employer in the United States. The availability of work authorization depends on the applicant's immigration status and the category under which they are applying.

Applicants for adjustment of status in family-based cases can file Form I-765 concurrently with Form I-485, allowing them to request work authorization while their green card application is pending[2]. Immediate relatives of U.S. citizens and spouses of lawful permanent residents are among those eligible for this benefit. Once approved, the EAD typically arrives as a card with an expiration date one or two years in the future[2].

In optimistic scenarios, EAD approvals can occur within two to four months, but applicants should expect varying timelines depending on USCIS workload[2]. The work permit provided by the EAD is temporary and automatically terminates once the green card is approved; at that point, the green card itself serves as proof of work authorization and the applicant no longer needs the separate EAD[2].

DACA recipients are eligible to file Form I-765 to request work authorization, and DACA status itself provides employment authorization once the initial application is approved. Work authorization is valid for the duration of DACA status and must be renewed each time DACA status is renewed. DACA recipients do not require a separate I-765 approval for work authorization if their DACA is approved; however, they may file concurrently to ensure authorization while their DACA application is pending[1].

Asylum applicants and refugees also have access to employment authorization. Refugees may work while their adjustment of status application is pending, and asylees can apply for work authorization on Form I-765 once their asylum application is approved[1].

Marriage-Based Green Cards and Fraud Prevention

Marriage-based green cards represent one of the most heavily scrutinized immigration pathways because of the risk of marriage fraud. USCIS operates with an inherent presumption of fraud for marriages entered into shortly before or after the filing of an immigration petition, particularly where evidence suggests a marriage of

convenience rather than genuine commitment and cohabitation[1].

Marriage fraud is a federal crime with serious consequences, including up to five years imprisonment and a $250,000 fine. USCIS has trained officers who are guided by the USCIS Policy Manual to assess the bona fides (genuineness) of marriages through documentary evidence and in-person interviews[1]. The burden of proof lies with the petitioner and beneficiary to demonstrate by a preponderance of the evidence that the marriage was not entered into for the purpose of evading immigration laws.

Red flags that trigger heightened scrutiny include meeting shortly before marriage, significant age gaps, no common language, religious or cultural differences without shared practice, previous immigration fraud by either party, different addresses, no joint lease or mortgage, no shared household items or finances, few photographs together, photos only from the wedding day, no joint bank accounts, no joint credit cards, separate tax filings, minimal shared expenses, and any previous conditional green card marriage followed by divorce[1].

During marriage-based green card interviews, USCIS officers typically conduct either a joint interview with both spouses together or separate "Stokes" interviews designed to assess consistency between spouses' answers. Common interview questions address when and how the couple met, when they began dating, how the proposal occurred, details about the wedding, what the couple did last weekend, which side of the bed the spouse sleeps on, morning routines, and what the couple ate for dinner recently[1]. Inconsistent answers between spouses raise serious concerns about the legitimacy of the relationship.

To prepare for interviews, couples should review all submitted documents together, discuss their relationship timeline thoroughly, know details about daily life and routines, bring updated evidence (recent photos, updated financial documents), and dress professionally as a couple[1]. Honesty during the interview is essential; lying is worse than unflattering truth, and if applicants do not know the answer to a question, they should say so rather than inventing an answer[1]. Applicants should not argue with their spouse during the interview and should remain calm even if questions seem invasive.

If USCIS suspects fraud, the agency may conduct fraud investigations including unannounced home visits, interviews with neighbors and employers, examination of financial records, and review of social media activity[1]. USCIS maintains dedicated fraud detection units specifically targeting marriage fraud cases.

Criminal History and Immigration Consequences

One of the most serious issues affecting immigration cases is criminal history. Criminal convictions create multiple categories of consequences in immigration law, and many criminal convictions that do not result in significant criminal sentences can have devastating immigration consequences including deportation and permanent bars to establishing immigration status.

Crimes involving moral turpitude (CIMT) are among the most serious grounds of deportability. These crimes are generally defined as crimes of dishonesty, fraud, theft, or crimes involving base, vile, or depraved conduct contrary to accepted rules of morality[1]. A single CIMT conviction can render an applicant deportable, and crimes involving moral turpitude can also constitute grounds of inadmissibility preventing admission to the United States or approval of green card applications[1].

Aggravated felonies are the most serious category of criminal conduct affecting immigration. Aggravated felonies include murder, drug trafficking, crimes of violence, theft crimes where the sentence is one year or longer, and various other serious offenses[1]. A conviction for an aggravated felony renders an applicant permanently barred from U.S. citizenship and subject to mandatory deportation with no available waivers[1].

Crimes of violence, defined as offenses whose elements involve the use, attempted use, or threatened use of physical force, constitute deportable offenses if the sentence is one year or longer. This definition can capture offenses that individuals might not consider "violent" in the traditional sense, including resisting arrest, domestic violence, DUI in some circumstances, and assault[1].

Drug crimes present special considerations. Any drug trafficking offense is deportable, and drug possession can be deportable depending on whether the applicant has multiple drug convictions. A conviction for simple possession of 30 grams or less of marijuana is an exception and does not constitute a bar to naturalization, but possession of more than 30 grams or other drug convictions do bar citizenship[1].

Criminal history affects multiple immigration contexts. When applying for asylum, USCIS considers criminal conduct and denies asylum if the applicant has been convicted of certain crimes. Applicants for naturalization (citizenship) must demonstrate good moral character, and criminal conduct-even arrests without convictions-can demonstrate lack of moral character[1]. Applicants for green cards and other benefits may be rendered inadmissible by criminal convictions. Courts have found that convictions for offenses such as burglary, domestic violence, sexual abuse, possession of firearms, DUI, and drug distribution are disqualifying under DACA eligibility requirements[1].

For individuals with criminal records considering immigration applications, consultation with an immigration attorney before filing any forms is essential. An attorney can assess whether criminal conduct will disqualify the applicant, identify potential waivers or relief, and determine whether state-level post-conviction relief (such as vacating or reducing convictions under California Penal Code § 1473.7) might eliminate immigration consequences before proceeding with immigration applications.

Asylum and Credible Fear Determinations

The asylum system provides protection to individuals who have suffered persecution or have a well-founded fear of persecution in their home countries based on protected grounds including race, religion, nationality, political opinion, or membership in a particular social group[1]. Two primary pathways exist for obtaining asylum: the affirmative process and the defensive process.

In the affirmative process, individuals not in removal proceedings apply directly to USCIS by filing Form I-589, Application for Asylum and for Withholding of Removal[1]. Applicants must apply within one year of last arriving in the United States unless they can demonstrate changed circumstances materially affecting their eligibility or extraordinary circumstances relating to the delay[1]. After filing, applicants receive a notice of receipt and attend a biometrics services appointment, after which they are scheduled for an interview with a USCIS asylum officer[1]. The affirmative asylum process can typically take about six months from application to approval[1]. Affirmative asylum applicants are rarely detained and remain in the United States while their cases are pending[1].

If USCIS denies an affirmative asylum application, the applicant may pursue the defensive process through immigration court. The defensive asylum process applies to applicants already in removal proceedings, such as those detained by ICE or referred to immigration court after being placed in expedited removal[1]. In the defensive process, the applicant appears before an immigration judge, who hears evidence from both the applicant and the government, and decides whether to grant asylum[1]. Unlike the affirmative process, the defensive process can take considerably longer-in 2019, the average defensive asylum case took nearly two years[1].

For applicants arriving at the U.S.-Mexico border after May 31, 2022, a special procedure called the Asylum

Processing Rule applies. These individuals are initially placed in expedited removal, and if they express fear of persecution, they receive a credible fear interview with a USCIS asylum officer[1]. If the asylum officer finds the applicant has established credible fear, rather than immediately being referred to immigration court, the applicant is scheduled for an Asylum Merits Interview (AMI) with a USCIS asylum officer within 21 to 45 days[1]. The asylum officer can grant asylum at the AMI, or if not granted, the case is referred to immigration court for "streamlined" removal proceedings[1].

The credible fear standard is lower than the full asylum standard. To establish credible fear, an applicant must show that there is a significant possibility that they could establish eligibility for asylum by demonstrating persecution or torture in their home country[1]. The burden is substantially lower than the final asylum standard, which requires that the applicant establish that persecution is more likely than not[1].

When an asylum officer does not find credible fear, the applicant may request review by an immigration judge. If the immigration judge overturns the negative credible fear finding, the applicant is placed in further proceedings where they can seek asylum or other protections[1]. If the immigration judge upholds the negative finding, the applicant will be removed from the United States[1].

An important protection in the asylum system: applicants who pass a credible fear interview are considered to have applied for asylum, which means the one-year filing deadline is automatically satisfied[1]. This addresses one of the most common reasons for asylum denial-missing the one-year deadline-by treating credible fear passage as equivalent to timely asylum application filing.

Biometrics Appointments and Background Checks

All applicants for immigration benefits (except those exempt by age) must attend USCIS biometrics appointments to provide fingerprints, photographs, and digital signatures[1]. Biometrics appointments are used to conduct identity and background checks; the FBI will search applicant information to check records with various law enforcement agencies[1]. USCIS will mail a biometrics appointment notice (Form I-797C) after filing an application, typically 4 to 8 weeks after the application is received[1].

The biometrics appointment usually takes approximately 20 minutes[1]. Applicants should bring their ASC appointment notice, a valid photo identification (such as a passport, green card, or driver's license), and an interpreter if they do not understand spoken English well[1]. The appointment notice will specify what type of biometrics are being collected-typically 10 fingerprints, a photograph, and a digital signature[1].

Biometrics remain valid for 15 months; if an application takes longer than 15 months to process, applicants must attend a new biometrics appointment[1]. USCIS will only reuse a photograph from a previous biometric appointment if it was collected within the last three years[1]. If an applicant cannot attend in person due to disability or medical condition, mobile biometric services may be available upon request[1]. If an applicant cannot provide fingerprints due to a medical condition, they can request a waiver at the appointment[1].

Applicants with criminal records should consult an immigration attorney before attending a biometrics appointment, as the fingerprint check will reveal criminal history and may identify issues affecting immigration eligibility[1]. Similarly, applicants with prior immigration enforcement encounters should be prepared to explain those experiences and their consequences[1].

Naturalization and Path to U.S. Citizenship

U.S. citizenship is available to eligible lawful permanent residents through the naturalization process. To be eligible for naturalization, an applicant must be at least 18 years old and meet one of several residency and

status categories[1]. Most lawful permanent residents must maintain green card status for five years before applying for citizenship, though this period is reduced to three years if the applicant is married to a U.S. citizen[1]. U.S. military service members have different requirements[1]. Children of U.S. citizens may be U.S. citizens through derivation or acquisition, depending on their circumstances[1].

Applicants for naturalization file Form N-400, Application for Naturalization, and must pass a civics test (on U.S. history and government) and an English test covering reading, writing, and speaking[1]. Some applicants are exempt from the civics and English requirements based on age and length of permanent residence; notably, applicants age 65 or older who have been permanent residents for 20 years may be exempt, and applicants age 50 or older with 15 years of permanent residence have reduced civics testing requirements[1].

Processing times for naturalization applications range from approximately 10 to 14 months, though this varies by service center[1]. Applicants can check their estimated processing time by selecting their form type, form category, and field office location on the USCIS website[1].

Criminal history affects naturalization eligibility significantly. Applicants must demonstrate good moral character, which is assessed by examining the applicant's conduct, particularly over the five years immediately preceding the naturalization application (or three years if married to a U.S. citizen)[1]. Arrests and convictions for certain crimes permanently bar naturalization, while other crimes impose temporary bars or create discretionary denials[1].

Temporary Protected Status and Related Protections

Temporary Protected Status (TPS) is a temporary immigration status provided to nationals of specifically designated countries facing ongoing armed conflict, environmental disaster, or other extraordinary conditions making it unsafe for nationals to return[4]. TPS is not permanent and must be renewed each time DHS extends the country's designation in the Federal Register[4].

To qualify for TPS, applicants must be nationals of a designated country (or stateless persons who last habitually resided in a designated country), have been physically present in the United States since the effective date of their country's TPS designation, have continuously resided in the United States since a specified date, and have no disqualifying criminal convictions[4]. Certain criminal convictions-including crimes of violence, drug trafficking, security-related crimes, and crimes of moral turpitude-can render applicants ineligible for TPS[4].

To apply for TPS, applicants file Form I-821, Application for Temporary Protected Status[4]. They may also file Form I-765, Application for Employment Authorization, to request an employment authorization document[4]. Both forms and supporting documentation (such as proof of nationality, identity, and continuous residence) must be filed with USCIS at the designated lockbox address[4]. Filing fees apply unless the applicant qualifies for a fee waiver by demonstrating financial hardship[4].

TPS beneficiaries receive protection from deportation while TPS is in effect and can access work authorization through Form I-765[4]. TPS does not automatically lead to permanent residency; however, TPS holders may be able to adjust status to permanent resident through family-based immigration, employment-based immigration, or other relief if they meet additional requirements[4]. Travel abroad requires advance parole authorization, and TPS can be lost through failing to renew, committing disqualifying crimes, or departing the United States without travel authorization[4].

Northern California Immigration Practice Considerations

Immigration practice in Northern California involves unique considerations related to court procedures, asylum office operations, ICE enforcement patterns, and state law interactions. San Francisco is home to multiple immigration court locations and the San Francisco Asylum Office, making it a critical hub for immigration adjudications affecting applicants throughout the region.

The San Francisco Immigration Court maintains three hearing locations: the main court at 100 Montgomery Street, Suite 800, a secondary location at 630 Sansome Street, 4th Floor, Room 475, and a Concord hearing location at 1855 Gateway Blvd., Suite 850, Concord[1]. Practitioners should be familiar with each location's procedures and judge assignments, as different judges have distinct preferences regarding continuances, evidence submission, and oral argument.

The San Francisco Asylum Office processes asylum applications for the entire Northern California region and maintains specific interview patterns and procedural requirements. Asylum applicants preparing for interviews should understand the particular officer tendencies and CAT (Convention Against Torture) screening practices in this office.

Northern California ICE Enforcement (ICE ERO Field Office 1) operates with specific enforcement priorities and maintains detention facilities at which detained immigrants are held. Practitioners should understand detention facility locations, capacity, and alternatives to detention procedures available in the region.

California Penal Code § 1473.7 provides a critical state-level mechanism for addressing immigration consequences of criminal convictions. This provision allows individuals to file motions to vacate convictions that were obtained in violation of rights (including when the defendant was not properly advised of deportability consequences), opening possibilities for criminal conviction modifications that could eliminate immigration barriers even after the criminal case is closed. AB 1352 requires prosecutors to provide discovery regarding immigration consequences of criminal charges, and SB 54, the California Values Act, limits cooperation between state law enforcement and ICE.

Applicants in Northern California should understand how state-level criminal law intersections might affect their immigration cases. For instance, Prop 47 reductions of certain felonies to misdemeanors may reduce immigration consequences, and Prop 64 modifications to marijuana-related convictions have affected immigration eligibility in some cases.

Conclusion and Strategic Considerations

The USCIS immigration system is complex, multifaceted, and constantly evolving. Understanding the basic structure of visa categories, the application process, current fees, processing timelines, and the substantial consequences of criminal conduct or procedural errors is essential for anyone considering immigration benefits or currently navigating the system.

Immigration decisions have permanent consequences for individuals and families. Choosing to adjust status versus pursuing consular processing, filing for employment authorization versus waiting for a green card, pursuing asylum versus accepting a visa bulletin backlist, and understanding criminal history implications all require careful consideration of individual circumstances, risk tolerance, and family considerations. Processing timelines mean that decisions made today will affect an applicant's status one or more years in the future as their case winds through USCIS and potentially immigration court.

For individuals in Northern California, the presence of the San Francisco Immigration Court and San Francisco Asylum Office means that many cases will be adjudicated by judges and officers in these locations, making understanding local practice and judge preferences particularly important. Additionally, Northern

California's generous state law protections for criminal conviction modification under PC 1473.7 present opportunities for addressing immigration consequences that may not be available in other states.

Applicants should never proceed with immigration applications without understanding the requirements, potential consequences, and strategic considerations applicable to their specific situation. Consultation with a qualified immigration attorney can mean the difference between successful immigration outcomes and devastating immigration consequences. The investment in legal counsel at the outset of an immigration case is typically far less expensive and infinitely more valuable than dealing with denials, deportation proceedings, or immigration fraud prosecutions after the fact.

References and Legal Citations

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