

Hot Topics Aver Que!

USCIS and DOS trends in family, humanitarian, and employment-based cases

The University of Texas School at Law
44th Annual Conference on Immigration and Nationality Law
October 22-23, 2020
Austin, Texas

Marisol Perez and Nicole Simon

1

USCIS & DOS Delays, Long Processing Times, and COVID

2

Overview of Current Administration's Practices

- Less immigration benefits available across the board
- Unprecedented number of visa denials
 - Ex: 12,179 public charge denials as of July 2020 compared with only 1,033 public charge denials in 2016
- Reductions in benefits primarily mandated through executive powers and administrative procedures

3

Delays in Processing

USCIS's average processing time rose by 19% from FY2017 to FY2018, even while overall numbers of case receipts declined by 13 % during that same period.

Some factors causing delays:

- Policies restricting legal immigration: increased application reviews (and duplicate reviews) and interview requirements
- USCIS alleges COVID-19 pandemic caused substantial revenue loss leading to delays and backlogs

4

Denials without accompanying RFE or NOID

- USCIS restored “full discretion to our immigration officers to deny incomplete and ineligible applications and petitions submitted for immigration benefits.”
- Denials reported to include those attributed in incomplete or incorrect forms or lack of evidence to show that the applicant is prima facie eligible for the benefit.
- Practice Pointer: I-485 cases have been denied at the lockbox for failure to show the applicant can adjust status; specifically, not enough evidence was submitted to show eligibility to AOS. For example, a visa copy was only available and submitted and not the I-94. When there appears to be a lack of all evidence such as this it is important to note on the cover letter that the applicant will offer additional testimony on their entry issue at the interview and the case should be forwarded to the district office for testimony. This applies to any contested issue that the lockbox may not understand.

5

Form Changes and Fee Increases

- The USCIS fee rule would raise application fees for many essential immigration benefits by 30 to 200 percent and eliminate most fee waivers for qualifying low income immigrants.
- USCIS's non-statutory fee increases were scheduled to go into effect on October 2, 2020.
- On September 29, 2020, the U.S. District Court for the Northern District of California issued a nationwide preliminary injunction, enjoining DHS from implementing the changes nationwide.
- On October 1, 2020, USCIS issued an update stating that while the rule is preliminarily enjoined, USCIS will continue to "accept USCIS forms with the current editions and current fees" and "use the regulations and guidance currently in place to adjudicate applications and petitions. This includes accepting and adjudicating fee waiver requests as provided under Adjudicator's Field Manual (AFM) Chapters 10.9 and 10.10."
- <https://www.aila.org/advo-media/issues/all/changes-to-uscis-fee-schedule>

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Hot Topics ¿A Ver Que? USCIS and DOS trends in family, humanitarian, and employment-based cases

Also available as part of the eCourse

[2020 eConference on Immigration and Nationality Law](#)

First appeared as part of the conference materials for the 44th Annual Conference on Immigration and Nationality Law session "Hot Topics ¿A Ver Que?"