

# USCIS Announces Significant Restrictions on Adjustment of Status Processing

by Ieva Aubin, J. Mike Sevilla, Michelle B. Micetic, and Bruce Wu

On May 22, 2026, U.S. Citizenship and Immigration Services (“USCIS”) announced a major policy shift regarding adjustment of status (“AOS”) applications. The AOS process allows eligible applicants to pursue lawful permanent residency – the so-called “green card” – from within the United States. Historically, many foreign nationals in lawful status in the United States have completed the final stage of the green card process by filing Form I-485 Application to Register Permanent Residence or Adjust Status. Under the new guidance, USCIS states that AOS will be granted only in “extraordinary circumstances” and on a case-by-case basis, rather than being treated as the routine final step in the green card process for eligible applicants physically present in the United States. In [the policy memorandum](#), USCIS indicates that foreign nationals seeking lawful permanent resident status must generally do so through consular posts abroad. The USCIS memorandum further notes that the agency will expect officers to undertake a heightened discretionary analysis when reviewing AOS applications, and grant applications only when “extraordinary” factors merit approval. An individual’s decision to remain in the United States and pursue permanent residency through the AOS process, instead of processing at a consular post abroad, will be relevant to the discretionary analysis as an adverse factor. The agency frames the new adjudicative emphasis as a resource-allocation measure and a reaffirmation that the availability of AOS is a matter of “administrative grace.”

The USCIS updated adjudicative approach presents new strategic considerations for employers and their foreign national employees who are currently pursuing, or considering pursuing, AOS from within the United States.

Importantly, the memorandum *does* acknowledge that certain nonimmigrant classifications, like the H-1B and L-1, are recognized in the Immigration and Nationality Act (INA)’s statutory framework as so-called “dual-intent” classifications, meaning that individuals present in the United States in these visa classifications are permitted to pursue lawful permanent residency concurrent with their United States stays. However, the USCIS policy memorandum does caution that maintaining H-1B or L-1 status alone is

## Related People

- Ieva Aubin
- J. Mike Sevilla
- Michelle B. Micetic
- Bruce Wu

## Related Capabilities

- Immigration
- Labor & Employment

not sufficient, on its own, to warrant a favorable exercise of discretion. The officers must still weigh “all the relevant evidence in the record, taking into account the totality of the circumstances to determine whether the alien is suitable for permanent residence and if approval of the alien’s adjustment of status application is in the best interest of the United States.”

This policy memorandum signals a significant shift from USCIS’ longstanding practice of allowing foreign nationals to apply for AOS while in the United States - a process that employers and foreign nationals have become reliant on for efficient processing of lawful permanent resident applications. USCIS has indicated that additional guidance is forthcoming. In the interim, employers and foreign nationals should remain aware that guidance in this area is presently in flux and that adjustment strategies will require additional analysis.