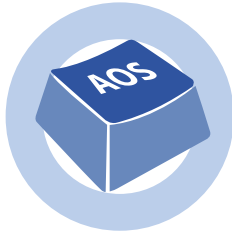


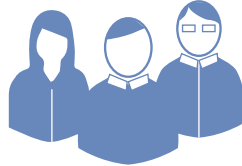


# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

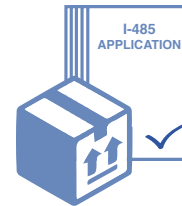
EMPLOYER INITIATES  
AOS PROCESS



GLC ASSISTS APPLICANT AND  
QUALIFYING FAMILY MEMBERS IN  
PREPARATION OF APPLICATION.  
APPLICATIONS FOR EMPLOYMENT  
AUTHORIZATION DOCUMENT (EAD) AND  
ADVANCE PAROLE DOCUMENT ARE  
ALSO PREPARED.



GLC FILES APPLICATION WITH  
APPROPRIATE USCIS SERVICE  
CENTER.

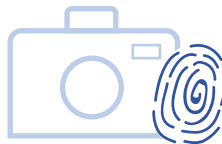


USCIS ISSUES RECEIPT NOTICE FOR  
THE APPLICATION (WITHIN 7-10 DAYS  
OF FILING).

NOTE: WE RECOMMEND THAT  
APPLICANTS CARRY RECEIPT  
NOTICE OF APPLICATION FOR  
ADJUSTMENT OF STATUS WHEN  
TRAVELING ABROAD.



APPLICANT RECEIVES NOTICE TO  
APPEAR FOR BIOMETRICS  
APPOINTMENT (PHOTOGRAPH AND  
FINGER-PRINTING) FROM USCIS  
(WITHIN 3-4 WEEKS OF FILING).



IF APPLIED FOR, APPLICANT RECEIVES  
EAD CARD, VALID FOR TWO YEARS AND  
ADVANCE PAROLE DOCUMENT, VALID  
FOR ONE OR TWO YEARS (WITHIN 90  
DAYS OF FILING). TYPICALLY, THE EAD  
AND ADVANCE PAROLE ARE GRANTED  
AS A SINGLE, COMBINED DOCUMENT.



IF AOS INTERVIEW IS WAIVED, USCIS  
FORWARDS APPROVAL NOTICE TO  
ATTORNEY (PROCESSING TIMES  
FLUCTUATE, PLEASE CONTACT OUR  
OFFICE FOR CURRENT ESTIMATE).



IF AOS INTERVIEW IS NOT WAIVED,  
ATTORNEY ACCOMPANIES APPLICANT  
TO USCIS INTERVIEW. IF AOS IS  
GRANTED, APPLICANT WILL RECEIVE  
THE PERMANENT RESIDENT CARD  
("GREEN CARD") IN THE MAIL FROM  
USCIS (WITHIN 30 DAYS OF APPROVAL).



APPLICANT RECEIVES PERMANENT  
RESIDENT CARD ("GREEN CARD") IN  
THE MAIL FROM USCIS (WITHIN 30 DAYS  
OF APPROVAL).





# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS



## 1) What is an Adjustment of Status?

Adjustment of status ("AOS") is the process by which a person who is lawfully present in the United States in temporary nonimmigrant status (e.g. H-1B, L-1, TN) may "adjust" his or her status to permanent resident ("green card") status based on an approved immigrant petition<sup>1</sup>. As more fully explained below, the AOS process involves obtaining medical records, birth documentation, marriage and divorce documentation where applicable, and submitting these materials with the Form I-485, Application to Register Permanent Residence or Adjust Status to the United States Citizenship and Immigration Services ("USCIS"). The following guidelines provide general information on the process of applying for an employment-based AOS<sup>2</sup>.

### 1.1) Who is eligible for an Adjustment of Status?



To be eligible for AOS, the applicant must not be inadmissible to the United States, and must not have violated his or her nonimmigrant status in the past<sup>3</sup>. There are several grounds that may make an applicant inadmissible. Persons with criminal convictions, for example, may be inadmissible depending on the severity and nature of the offense(s). A person who has overstayed his or her period of authorized stay, worked without authorization, or otherwise failed to comply with the terms of his or her nonimmigrant status, would be considered to have violated his or her status, and in some cases, may be ineligible to adjustment status for this reason. Note that for employment-based applications, the law provides a limited exception allowing applicants to adjust notwithstanding some minor status violations of less than 180 days since the person's last entry to the United States. If you are unsure of your eligibility for adjustment, please contact your attorney at Goeschl Law Corporation to discuss the facts of your case.

All employment-based AOS applications are filed with either the Nebraska or Texas Service Center of the USCIS depending on the applicant's place of residence. Current processing times at both Service Centers range from about six to ten months. Because processing times fluctuate, some cases may take significantly longer depending on the specific facts of the case.

## 2) What happens to my nonimmigrant status when the adjustment of status is filed?



With the exception of persons in valid H-1B, H-4, L-1 and L-2 statuses, once the AOS application is filed, the applicant is no longer in nonimmigrant status. He or she becomes an "adjustment applicant" until the application is approved, at which point he or she becomes a permanent resident. Persons who are in H-1B, H-4, L-1 and L-2 nonimmigrant statuses may maintain their nonimmigrant status concurrently while the AOS application is pending, provided they comply with the terms of their nonimmigrant status, and file extensions as necessary.

<sup>1</sup> In some cases, the AOS application (or "I-485") may be filed concurrently with the immigrant petition.

<sup>2</sup> This memo is intended for clients of Goeschl Law Corporation and is for informational purposes only. While we hope that this information is helpful as general background information, we cannot warrant its applicability, accuracy, or completeness, given the many intricacies of specific factual circumstances and scenarios and the frequent changes to immigration policy and procedures. Please also note that this memo does not cover procedures for any other visa classifications.

<sup>3</sup> Please note that in some cases a waiver of inadmissibility may be available, allowing an applicant to adjust status.



# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS



## 3) Can I work and travel while the Adjustment is pending?

At the time of filing the I-485 application, applicants, including dependent family members, may apply for Employment Authorization Documents ("EAD") and Advance Parole Travel Documents. The EAD provides the applicant with work authorization, and the Advance Parole document provides the applicant with travel authorization while the I-485 application is pending. It usually takes 2 to 3 months from the time of filing the AOS applications to receive the EAD and Advance Parole documents. In many cases, the applicant may not leave the country or accept employment until these documents are received. For more information, please refer to the advisory below that is specific to your current status.



### 3.1) Work Authorization Advisory for Adjustment Applicants in H-1B or L-1 Status

Persons maintaining H-1B or L-1 status while their adjustments are pending do not require an EAD card to work at their H-1B or L-1 employer. However, if the person accepts employment at a different employer, he or she will need the EAD card, and will no longer be entitled to H-1B or L-1 status. The person will be an adjustment applicant only, and will need to use the advance parole travel document. For future U.S. entries.



### 3.2) Work Authorization Advisory for Adjustment Applicants in H-4 or L-2 Status

Persons in H-4 and L-2 status are not allowed to work in the United States unless he or she has been granted a work authorization from the USCIS as a derivative spouse of an H-1B or L-1 nonimmigrant. Such persons may continue employment for as long as the H-4/L-2 EAD is valid and the principal alien continues to be employed by his/her H-1B/L-1 employer. They may also apply for EADs as an applicant for AOS as explained above.

An individual who has not been granted H-4 or L-2 EAD may apply for an EAD on a separate basis, as an applicant for AOS as explained above.

Once the individual commences employment based on an AOS-based EAD, such individuals are no longer considered to be in H-4/L-2 status, and so will be required to use Advance Parole for future U.S. entries.



### 3.3) Work Authorization Advisory for Adjustment Applicants not in H-1B, H-4, L-1 or L-2 Status

As noted above, persons who are in a nonimmigrant status other than H-1B, H-4, L-1 or L-2 lose their nonimmigrant status when they file their AOS applications. If the person had work authorization prior to filing the adjustment application, however, he or she will be able to maintain that work authorization until it expires, or until the person departs from the U.S. using advance parole. If the person leaves the country using advance parole, his or her work authorization will no longer be valid, and he or she will need an EAD card to continue working in the United States upon return.



## ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS



### 3.4) Travel Advisory for Adjustment Applicants in H-1B, H-4, L-1 and L-2 Status

Persons maintaining valid H-1B, H-4, L-1 and L-2 nonimmigrant statuses may continue to maintain their nonimmigrant status through the AOS process, and do not need an advance parole travel document to leave and reenter the United States. Such persons must be physically present in the United States at the time of filing the AOS application, but once it is filed they may leave the United States and 1 reenter accepts using a employment valid at H-1B, an H-4, employer L-1 or other L-2 than visa. the As noted sponsor of above, their howeverH-1B , or if L-1an status, H-1B or they are no longer in valid H-1B or L-1 status, and would therefore need an approved Advance Parole to leave and reenter the US.

Please note that if you travel outside the United States with your valid H-1B, H-4, L-1 or L-2 visa while your application for advance parole (AP) is pending, USCIS will deny the application due to abandonment. The denial of the advance parole AP application, however, will not affect your pending green card application or your current status in the United States. You will be eligible to reapply for the advance parole (AP) application, if necessary.



### 3.5) Travel Advisory for Adjustment Applicants Not in H-1B, H-4, L-1 or L-2 Status

If you are not in H-1B, H-4, L-1 or L-2 nonimmigrant status at the time of filing your AOS, you may not leave the United States for any reason until you have received an Advance Parole travel document. As noted above, this generally takes about 3 months from the time of filing. If you leave the country without an approved Advance Parole, your application will be deemed abandoned, and you may not be allowed to reenter.

Please note that if you apply for renewal of your advance parole travel document, that you may not travel outside the United States until the renewal is granted, even if you are traveling with your previously approved Advance Parole. As noted above, any international travel while an application for advance parole is pending, will be denied for abandonment.



# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

## CHECKLIST FOR EMPLOYMENT-BASED AOS APPLICANTS

- Sealed Medical Report. You can search for an approved USCIS doctor in your area online with the USCIS at: <https://my.uscis.gov/findadoctor>
- Eight (8) Photographs, for each applicant. Please write the name and birth date at the back of each photo in pencil or ballpoint ink. Please see page 8 for the USCIS's photograph specifications or visit: <https://travel.state.gov/content/visas/en/general/photos.html>.
- Copies of Current and Expired Passports. Please provide complete copies, including all blank pages, of all passports bearing U.S. visas and entry stamp(s) for each applicant.
- Copies of **Form I-797, Approval Notices or Receipt Notices**. Please provide clear copies of all notices issued to you and your family, if applicable (e.g. H-1B, L-1, TN, H-4, L-2, TD, B-2, I-140, etc.)
- Copies of All Previously Issued Immigration-Related Documents. Please provide clear copies of all documents issued to you and your family members verifying you have maintained status while in the United States, such as: most recent Form I-94 Admission Record, Form I-20 (if previously held F-1 status), DS-2019 (if previously held J-1 status), Form I-129S (if previously held L-1 status), Employment Authorization Document, and all previous nonimmigrant petition approval and extension notices. Your most recent I-94 Admission Record can be retrieved online at <https://i94.cbp.dhs.gov/I94/>.
- Copy of Birth Certificate or Birth Record. Please provide a clear copy of the birth document for each applicant that includes the applicant's full name, date and place of birth, and the names of both parents. Please see page 6 for the USCIS's specifications or visit: <https://travel.state.gov/content/visas/en/fees/reciprocity-by-country.html>.

(Note: You should keep the original or certified copy available, to be submitted upon request by an USCIS officer.)

- Copy of Marriage Certificate or Marriage Record, if applicable.
- Copy of Proof of Termination of Prior Marriages, if applicable, such as divorce decree(s) or death certificate(s).
- Copy of Name Change Documentation, if applicable.

Continued on next page ►



## ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

### CHECKLIST FOR EMPLOYMENT-BASED AOS APPLICANTS (Continued)

- Evidence of Marriage, if applicable. If your spouse is applying with you and you have been married for less than 2 years, the USCIS will likely request evidence that your marriage is “bona fide,” i.e. not fraudulent. Please provide as much of the following documentation as possible:
  - i. Birth certificates for children born to you both, if applicable;
  - ii. Proof of joint residence or ownership of property;
  - iii. Copies of joint income tax returns;
  - iv. Proof of joint financial accounts;
  - v. Proof of joint medical or auto insurance coverage; and
  - vi. Photos from your relationship and marriage up until the present, especially those with family and friends.
  
- Employment Offer Letter. Our office will obtain this letter from your current employer confirming the terms and conditions of the job offered.



# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

## RULES OF BIRTH DOCUMENTS

Please refer to this link for the type of acceptable form of birth documents from your country:  
<https://travel.state.gov/content/visas/en/fees/reciprocity-by-country.html>.

1. Each applicant must have birth documentation. A passport is not considered as acceptable birth evidence. An acceptable birth certificate must be issued by an appropriate government authority, i.e. one charged with the responsibility for keeping birth and death records for that municipality, and must include the following information:
  - i. Name of child
  - ii. Date of birth
  - iii. Place of birth
  - iv. Full name of father
  - v. Full name of mother
  
2. If an acceptable birth document is not available, the applicant must submit two sworn birth affidavits executed by appropriate relatives and a certificate of “Nonexistence of Birth Record” issued by an appropriate government authority, i.e. one charged with the responsibility for keeping birth and death records for that municipality, attesting that there is no record of the birth. An acceptable certificate of “Nonexistence of Birth Record” must include:
  - i. Name of child
  - ii. Date of birth
  - iii. Place of birth
  - iv. Full name of father
  - v. Full name of mother
  
3. If a birth certificate does not contain all the required information, the applicant must submit the incomplete birth certificate and one sworn birth affidavit executed by an appropriate relative.
  
4. Affidavits. An acceptable birth affidavit must be executed by one or both parents and must be sworn in the presence of a notary public. If one parent is deceased and two affidavits are required, the affidavit must be executed by the surviving parent and an older relative with direct knowledge of the birth of the child. If both parents are deceased, the affidavit must be executed by one or two older relatives with direct knowledge of the birth of the child. A birth affidavit must contain the following information:
  - i. Name of child
  - ii. Date of birth
  - iii. Place of birth
  - iv. Full name of father
  - v. Full name of mother



## ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

5. A person who has used a different name from the one shown on the birth document must produce a document explaining the use of such name. The following documents are commonly available as evidence:
- i. Baptismal certificate
  - ii. Marriage certificate or divorce decree
  - iii. School records showing early use of adopted name

If none of the foregoing documents are available, any other document, or combination of documents, that appear to resolve the difference in names will be considered. A personal sworn statement from the applicant is not acceptable, unless there is other evidence to substantiate it.<sup>4</sup>

### IMPORTANT NOTICE CONCERNING VACCINATION REQUIREMENTS

All immigrant visa applicants are required to obtain certain vaccinations (listed below) prior to the issuance of an immigrant visa. Panel physicians who conduct medical examinations of immigrant visa applicants are required to verify that immigrant visa applicants have met the vaccination requirement, or that it is medically inappropriate for the visa applicant to receive one or more of the listed vaccinations.

- i. Mumps,
- ii. Measles,
- iii. Rubella,
- iv. Polio,
- v. Tetanus and Diphtheria Toxoids,
- vi. Pertussis,
- vii. Influenza Type B (Hib)
- viii. Hepatitis B,
- ix. Varicella,
- x. pneumococcal and,
- xi. Influenza.

In order to assist the panel physician, and to avoid delays in the processing of an immigrant visa, all immigrant visa applicants should have their vaccination records available for the panel physician's review at the time of the immigrant medical examination. Visa applicants should consult with their regular health care provider to obtain a copy of their immunization record, if one is available. If you do not have a vaccination record, the panel physician will work with you to determine which vaccinations you may need to meet the requirement. Certain waivers of the vaccination requirement are available upon the recommendation of the panel physician.

Only a physician can determine which of the listed vaccinations are medically appropriate for you, given your age, medical history and current medical condition.

---

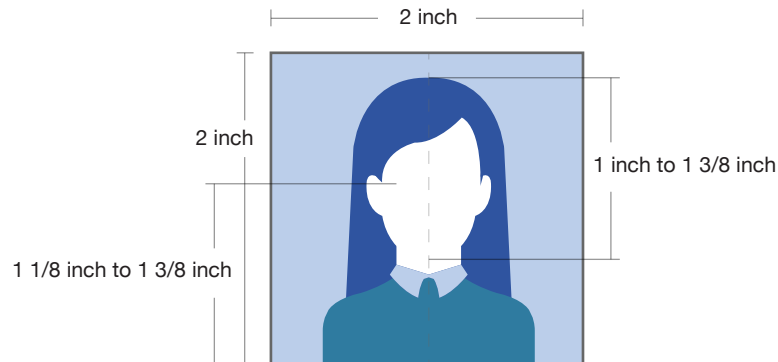
<sup>4</sup> Specific instructions regarding Rules of Birth Documents for Nationals of India and Pakistan are available upon request.





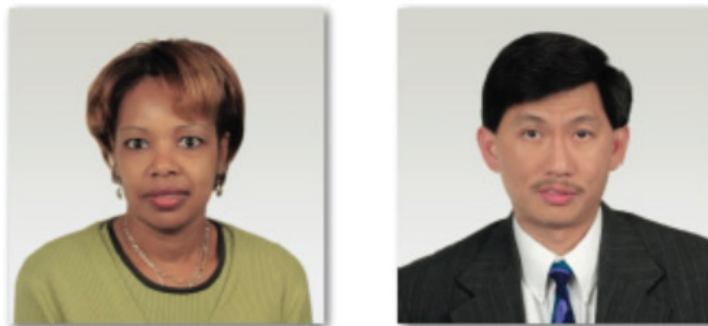
# ADJUSTMENT OF STATUS PROCESS FOR EMPLOYMENT-BASED APPLICANTS

## PHOTOGRAPH SPECIFICATIONS



- Taken within the last six months.
- 2 inches by 2 inches square, with the head centered in the frame. The height of the head (top of hair to bottom of chin) should measure 1 inch to 1 3/8 inches (25 mm - 35 mm).
- In color, or black and white against a white or off-white background. Photographs taken in front of busy, patterned or dark backgrounds are not acceptable.
- Unmounted, full face, with the face covering about 50% of the area of the photograph. In general, the head of the applicant, including both face and hair, should be shown from the crown of the head to the tip of the chin on top and bottom, and from hair-line side-to-side. It is preferable that the ears be exposed.
- Head-coverings are acceptable only when the applicant's face is completely exposed.

## WELL-COMPOSED PHOTO COMPOSITION EXAMPLES



Please refer to this link for further information on photo requirements: <https://travel.state.gov/content/visas/en/general/photos.html>.