



February 2, 2023

PA-2023-01

## Policy Alert

SUBJECT: Asylee and Refugee Adjustment 1-Year Physical Presence Requirement

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) to clarify the applicability of the 1-year physical presence requirement for refugees and asylees applying for adjustment of status.<sup>1</sup>

### Background

To be eligible for adjustment of status, an asylee or refugee must have been physically present in the United States for at least 1 year after either being granted asylum status or admitted as a refugee.<sup>2</sup>

Although this eligibility requirement is similar for asylees and refugees, USCIS guidance has differed on whether refugees and asylees are required to satisfy the physical presence requirement at the time of filing or the time of adjudication of adjustment of status.

Statutorily, a refugee is required to apply for adjustment of status 1 year after being admitted as a refugee.<sup>3</sup> However, it is impossible for a refugee to satisfy both this filing requirement and the physical presence requirement at the time of filing for adjustment of status if the refugee has traveled outside the United States during the 1-year period after admission as a refugee. This has led to situations in which a refugee files for adjustment of status as required by the statute, but the refugee is unable to satisfy the physical presence requirement.

To promote consistency in the processing of asylee and refugee adjustment of status applications and reduce barriers that might impede refugees from timely filing for adjustment of status, USCIS is updating policy guidance to clarify that both asylees and refugees are required to satisfy the 1-year physical presence requirement at the time USCIS adjudicates the adjustment of status application, rather than at the time of filing. This update, contained in Volume 7 and Volume 12 of the Policy Manual, is effective immediately and applies to all adjustment of status and naturalization applications that are pending on February 2, 2023, and applications filed on or after that date. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.<sup>4</sup>

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<sup>1</sup> See [INA 209](#).

<sup>2</sup> See [INA 209\(a\)](#) and [INA 209\(b\)](#).

<sup>3</sup> See [INA 209\(a\)](#).

<sup>4</sup> USCIS is also making technical updates in sections of text impacted by this update.

## Policy Highlights

- Provides that asylees and refugees are required to accrue 1 year of physical presence by the time of adjudication of the adjustment of status application, rather than by the time they file the application (and that USCIS may request additional information to determine such physical presence in the United States).
- Clarifies that asylee and refugee adjustment applicants who have held the immigration status of exchange visitor (J-1 or J-2 nonimmigrants) and who are subject to the 2-year foreign residence requirement under INA 212(e) are not required to comply with or obtain a waiver of such requirement in order to adjust status under INA 209.
- Makes technical updates, including clarifying processing steps for refugees seeking waivers of inadmissibility and removing references to the obsolete Decision on Application for Status as Permanent Resident (Form I-291).
- Provides that USCIS considers a refugee or asylee who adjusted status to a permanent resident despite filing for adjustment before accruing 1 year of physical presence to have been lawfully admitted for permanent residence for purposes of naturalization if the applicant satisfied the physical presence requirement at the time of approval of the adjustment of status application.

## Summary of Changes

Affected Section: Volume 7 > Part L > Chapter 2, Eligibility Requirements

- Revises Section B (Physical Presence in the United States for at Least 1 Year) throughout.
- Revises introductory sentence and last bullet point in Section F (Special Considerations for Refugee Adjustment of Status Applicants).

Affected Section: Volume 7 > Part L > Chapter 3 > Section D, Waivers

- Revises final three paragraphs.

Affected Section: Volume 7 > Part L > Chapter 4 > Section A, Required Documentation and Evidence

- Revises two paragraphs following third bullet point.

Affected Section: Volume 7 > Part L > Chapter 5 > Section E, Detained Refugees

- Revises section throughout.

Affected Section: Volume 7 > Part M > Chapter 2 > Section A, Physical Presence in the United States of at Least 1 Year

- Revises section throughout.

Affected Section: Volume 7 > Part M > Chapter 3 > Section D, Waivers

- Adds new paragraph under new italicized subheading “Exchange Visitors (J-1 and J-2 Nonimmigrants).”

Affected Section: Volume 7 > Part M > Chapter 4 > Section A, Required Documentation and Evidence

- Revises four paragraphs following third bullet point.

Affected Section: Volume 7 > Part M > Chapter 5 > Section C, Waiver Instructions

- Revises final two paragraphs.

Affected Section: Volume 12 > Part D > Chapter 2 > Section D, Underlying Basis of Admission

- Revises title of Subsection 7 from “Refugee Adjustment” to “Asylee and Refugee Adjustment” and revises subsection in full.

### **Citation**

Volume 7: Adjustment of Status, Part L, Refugee Adjustment, Chapter 2, Eligibility Requirements [[7 USCIS-PM L.2](#)]; Chapter 3, Admissibility and Waiver Requirements [[7 USCIS-PM L.3](#)]; Chapter 4, Documentation and Evidence [[7 USCIS-PM L.4](#)]; Chapter 5, Adjudication Procedures [[7 USCIS-PM L.5](#)].

Volume 7: Adjustment of Status, Part M, Asylee Adjustment, Chapter 2, Eligibility Requirements [[7 USCIS-PM M.2](#)]; Chapter 3, Admissibility and Waiver Requirements [[7 USCIS-PM M.3](#)]; Chapter 4, Documentation and Evidence [[7 USCIS-PM M.4](#)]; Chapter 5, Adjudication Procedures [[7 USCIS-PM M.5](#)].

Volume 12: Citizenship and Naturalization, Part D, General Naturalization Requirements, Chapter 2, Lawful Permanent Resident Admission for Naturalization [[12 USCIS-PM D.2](#)].