

ImmigrationPortal.Com
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United for Dignity, Equality and Acceptance

**Subject: Immigration Benefits Backlog Petition -
Permanent Residence and Naturalization**

Honorable Legislators,

We are a community of immigrants and immigration benefits applicants congregating at <http://www.immigrationportal.com> Currently, we number over 67,000 registered members and approximately five times as many unregistered participants. Accordingly, we are the largest immigration community in the world.

We want to draw the attention of U.S. Congress and USCIS(US Citizenship and Immigration Services) to the excruciatingly slow progress of the Immigration benefits like Application for Adjustment of status (I-485) and Application for Naturalization(N-400).

Perpetual Processing Delays:

According to the recent USCIS statistics report dated August 31, 2003, the total immigration application pending cases reached 5,257,972 , a **31 percent increase** when compared to July 2002 and the total naturalization application pending cases reached 717,064. Until 2002, most of the Legacy INS' service centers with the exception of Texas service center, adjudicated the employment based I-485 applications and N-400 Naturalization applications in under 12 months. But with the introduction of additional security checks, combined with the shortage of staff at USCIS service centers, the I-485 application processing time has now increased to more than 20 months at all the service centers and at Texas Service Center more than 2 years and N-400 Naturalization application processing time has increased to more than one year. What is alarming is, the processing time delays are worsening each month.

Immense Hardships faced by Immigration Benefits Applicants:

This severe processing delays are affecting the lives of immigration benefits applicants tremendously. Important factors in our lives such as marriage, home ownership, education for our children and our well being have been put on hold. Career advancement has been hampered since the applicant has to remain with the same respective employer (or) similar job in order to benefit from this adjustment of status. The majority of the employers have taken advantage of these restrictions, created by the severe processing delays. Such restrictions again are impacting the livelihood of not only immigration benefits applicants but also the company they work for. An overall feeling of frustration is negatively affecting all of the immigration benefits applicants.

Through the press release statement, Recently AILA president Ms.Palma Yanni stated

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"Many hardworking, tax-paying immigrants struggle to understand an increasingly complex immigration system that seems to thwart people's efforts to become U.S. citizens. Backlogs in obtaining green cards and citizenship have a real impact on people's lives." and urged U.S. President and U.S. Congress to get serious about backlog reduction.

Diverting Immigration Benefits Funds towards Immigration Enforcement:

In the past few years, the Legacy INS / DHS has utilized the majority of the funds appropriated by U.S. Congress for immigration towards immigration enforcement instead of towards immigration benefits providing services to the law-abiding tax paying immigrants and residents who paid the fees to Legacy INS/DHS/BCIS/USCIS to have their applications and petitions for immigration benefits adjudicated in a timely manner . Diverting immigration benefits funds towards immigration enforcement reduced the amount spent on processing the immigration benefits applications which resulted in huge backlogs for immigration applications and naturalization applications, and these backlogs are already out of control.

Immigration Services and Infrastructure Improvements Act of 2000:

Under SEC.202. PURPOSES (b) POLICY, of the above law passed by U.S. Congress, "It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application".

Also, In 2000, President Bush made a pledge to reduce the Immigration and Citizenship processing times for all types of applications to less than 180 days. The President also promised to allocate \$500 million over a period of 5 years to achieve a 6-month immigration benefits application processing time by the end of 2006. However, U.S. Congress has not allocated that fund in the current budget to reduce the backlog. While U.S. Congress has set 2006 as the target year for USCIS to achieve these results, the current applicants are in desperate need of an interim solution to address their immediate concerns.

Immigrants Contribution to America:

Immigrants provided dedicated efforts to this country when it was in dire need of specialty skilled workers. The immigrants behind this petition include world renowned scientists, highly skilled computer experts, innovators, physicians, teachers etc. Immigrants are playing an important role in making the American corporations establish and maintain their leadership in U.S. and global markets. Immigrants are now an integral part of almost every major American Corporation. Immigrants continued presence in immigration glitch free situation is critically important for the growth of American business and the American Economy. While pursuing the American dream, Immigrants continue to contribute towards making this country continue to lead the world

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technologically and economically.

Immigration has been an integral part of America since its inception. Immigrants stimulate the United States economy in general, enrich American culture and enhance the United States influence in the world. The following reports substantiate the same:

1. Based on various studies, Immigrants have created employment opportunities for millions of Americans by developing new products and establishing business ventures, Contrary to the popular myth that immigrants may take American's jobs. Immigrants have been crucial to America's dominance and dynamism in the global economy.
2. Under current immigration levels, the U.S. labor force will grow by 40 percent between 1995 and 2050 according to the National Academy of Sciences, which is possibly inadequate . The immigration inflow is required to reinforce the U.S. labor force. The admission of immigrants with high skills will benefit the American society.
3. The Bureau of Labor statistics(BLS) projects the total employment over the 2000-2010 period to increase by 15% and during the same period the various Computer related jobs are expected to grow by about 60% to 100%, Science and Engineering jobs are expected to grow by about 40% to 60%, Health Care related jobs are expected to grow by about 24% to 57% and Education related jobs are expected to grow by about 13% to 24%. The entry of highly educated immigrants to U.S. labor force will lead to faster economic growth.

The continued success of the United States largely rests upon its successful pro-immigration policy.

We as a nation need to enhance our security providing proper comfort and security for all American citizens and residents without harming our internationally based economy, our dedication to respecting individual rights preserved by the Constitution, and our tradition as a nation of immigrants.

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Requests of Immigration Benefits Applicants:

The immigration benefits applicants request the legislators to pass new laws or amend existing laws to address their problems. Some of the requests are:

1. Give higher priority to Employment Based I-485 applications and N-400 Naturalization Applications:

It is historically obvious that when Legacy INS/USCIS prioritizes any processing tasks, Employment Based I-485 applications and N-400 Naturalization applications suffer. Some of these priority tasks undertaken include TPS, Religious workers cases, Asylum cases, etc. Prioritizing the urgent tasks are appreciated, but USCIS should not do this at the expense of EB I-485 applications and N-400 Naturalization applications. On an average I-485 applicants have been living in this country for more than 6 years and N-400 Naturalization applicants have been living in this country for more than 10 years. They have been working hard, paying their share of Taxes and making intellectual as well as monetary contribution to the system. Legal immigration benefits applicants feel that they were treated as irrelevant or less important immigrant group. While so many bills were introduced and passed to give benefits to illegal immigrants, the problems of legal immigrants were not addressed .

2. Increase the funding to Service Centers:

One of the main reasons for the processing delays is lack of enough resources to adjudicate the huge number of backlog applications. USCIS has expressed their inability to hire enough adjudicating officers because of funding problems. The immigration benefits applicants requests U.S. Congress to allocate additional funds exclusively for reducing the Employment based I-485 applications and N-400 Naturalization applications.

3. Remove Restrictions on EB I-485 applicants:

One of the main problems being faced by Employment based I-485 applicants is the restrictions on job portability. Though " The American Competitiveness in the Twenty-first Century Act (AC21)" tried to address these concerns, it failed to remove all the restrictions on job portability. The applicants requests Congress to remove all the restrictions on job portability after 6 months from the date of filing the I-485 application. The current restrictions require that an applicant can change the job provided the new job is a similar job with similar job duties. This leaves a wide scope for interpretation for USCIS.

4. Extend the validity period of EAD and Advanced Parole :

Currently, the Employment Authorization Document (EAD) and Advanced Parole for adjustment of status applicants, are issued with a validity of 1 year. Since the actual I-485 application processing is taking more than 20 months, all the applicants were forced to renew their EAD and Advanced Parole. This is not only resulting in loss of time and money for the applicants, but USCIS is getting burdened with unnecessary additional

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work. The immigration benefits applicants requests Congress to increase the validity period of EAD and Advanced Parole to 3 years. Please note that it is taking more than 2 years at Texas Service Center for the adjudication of an Employment based I-485 application.

5. Approve Permanent Resident application of dependents if the primary applicant dies:

During the Adjustment Of Status (AOS) period, if the Primary applicant dies then all their dependents are denied the Permanent Resident status and removal proceedings are most likely initiated against them. This is highly inequitable. To uproot families of honest, tax paying, hard working people because the primary bread earner has passed on is highly egregious. The immigration benefits applicants request you to change the existing laws so that, during the Adjustment Of Status, if the Primary applicant dies any time after six months of the date of Receipt, then the dependents' applications should not be rejected. The dependents must not be penalized for the processing delays at USCIS.

6. Amend Naturalization Requirements:

Immigration & Nationality Act (INA) Sec. 316. [8 U.S.C. 1427] states that “ No person, except as otherwise provided in this title, shall be naturalized, unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years”.

The INA should be amended so that, for people who had obtained the Permanent Residency through Employment, the five year lawful residency requirement should start from the day adjustment of status application (I-485) was filed with USCIS.

Alternatively, The immigration benefits applicants suggest that the naturalization eligibility for people who had obtained the Permanent Residency through Employment should be changed, so that it requires the applicant must be a permanent resident and must have resided in USA for 8 years with valid legal status to work.

Sincerely,

I-485 Applicants, N-400 Applicants and Immigrant's well-wishers.

P.S.: The petition has been hosted at

**http://www.immigration.com/common/rsk/petition_I485.html
and the signatures can be viewed by clicking view signatures
button.**

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Appendix A

Selected Personal Statements from Petition Members

Career hardships faced by Non-citizen

I work for a major Defense contractor in the area of satellite communications. My technical expertise is extremely beneficial to my company dealing with Defense, Homeland and National security government contacts. My I-485 petition has been pending at Vermont Service Center for over 12 months and my status as "waiting adjustment of status" creates extreme hardships for the company and myself. Working in a "secure" environment with "Export Control" regulations creates a daily fearful ordeal just to get through the day without breaking any laws. Furthermore, the prolonged delay of adjudication often results in an unfair work culture, with people classified as Citizens or not. At workplace, I have to wear a designated color badge, indicating my status as a "foreign" person. I am only allowed to enter through a designated entrance and exit and have access only to my own office and a lab. Due to all the physical restrictions, I cannot visit the in-house cafeteria, unless escorted by a U.S. citizen. I am only allowed to work from 7:00 AM to 4:00 PM and this prevents me from utilizing the company's flexible hour schedule. There is not genuine recognition or promotion at work because of my immigrant status. Due to the nature of the State Department Export License, which is for a specific project I have absolutely no flexibility to work on other projects or even be consulted on anything else. My wife cannot get driver license for a second year in a row, because she is on EAD. By Pennsylvania state law, she can't have driver license or learning permit. I have to drive her to work and home everyday. The time spent I have no other choice but to use it as vacation time, since my limited time permission in the building does not allow me to make up for this time. Stress, anxiety and lack of security are part of our daily lives. The multi-year process delay, with no end in sight, creates innumerable problems for people like myself and for the companies trying to utilize our skills and at the same time abide by a plethora of other immigration and government regulations.

Children's education affected

I filed EB1 I-485 petition at Nebraska Service Center back in Oct 2001. I have two daughters who graduated from high school with GPA of 3.98 and 3.99 respectively. They were both rewarded merit based scholarships to study at Univ. of Michigan. However, since we are waiting for our green card approval, the two daughters were told that they would not be qualified for the scholarship. The girls have to stop studying because they can not afford to take a loan that they may not be able to pay back. The young kids' hearts were broken and so did ours. BCIS's unacceptable delay has affected thousands of

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innocent children's lives. These children have become the victims of the backlog.

I am a California state resident. I filed my I-485 in Feb 2002. My daughter will go to a university this fall. However, her financial aid application was rejected because she was not a permanent resident and therefore not qualified. For illegal students, DREAM Act and Student Adjustment Act may help them to get financial aid. But for legal workers and their dependents, there're really no hope.

EAD inconvenience

I am a software architect for a fortune 500 company. I have been waiting for my EB I-485 adjudication for 20 months. Recently, I had a bad car accident that damaged my car. I decided to buy a safer car. Unfortunately, the bank would only give me a loan that I have to pay back in 6 months because my EAD expires in 6 months. I could not afford such a high monthly payment and I was forced to take bus to work everyday. Because of this, I cannot work late, and lose couple of hours everyday trying to catch the bus. Approving my I-485 petition timely, would have prevented these hassles.

Service Center error

I have applied for I-140 in Feb 2002 and got approved in May 2002. I filed my I-485 case in May 2002. My company changed its name after my I-485 is filed but the tax-id remained the same . My lawyer filed an I-140 Amendment for company name change in July 2002. In May 2003(almost after 10 months) I got I-140 amendment RFE asking me to "provide legal doc to show company name change happened legally". RFE response was received by BCIS in the first week of June 2003. In the second week of 2003 BCIS denied my former approved I-140 stating that Employer tried to substitute new Alien for the Labor Certification, which in turn denied my I-485 petition. This is solely a mistake by the Service Center. In the fourth week of June 2003 my I-140 Amendment got approved. I then filed MTR (Motion to Reopen) in July 2003. Because of this severe Service Center error, I am going through tremendous pressure , anxiety and high legal costs. I haven't heard from BCIS ever since and I am now seeking congressional help.

Local Interview Nightmare

I filed my I-485 case in Nov, 2001. My case was transferred to Buffalo district office on July 18, 2003. I received a notice from Buffalo local office dated August 25, 2003 which mentioned that the normal processing time for this type of application is 9 months. Moreover, the Buffalo local office assigns a new case number to my case with the Receipt date August 25, 2003 where as my actual RD is November 19, 2001. After 21 months of long waiting, I have to wait for nine more months for the interview. This is a devastating news to my family. I urge BCIS to expedite I-485 interviews at local offices.

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An interview won't take more than 10 minutes and I have been waiting for my green card adjudication for 21 months.

Second fingerprint pain

I am a New Jersey state resident. My case receipt date is 10/01/2001, so far I have not heard anything from BCIS while others who filed cases same time as me have been approved months ago. I have already filed for third EAD and second Advanced Parole last week. Last month after calling NCSC, I got a response that said "First fingerprint has expired and BCIS has sent a notice to the applicant, and should complete it in order to get his application processed". Almost 8 weeks have passed since then and neither my lawyer's office nor I have received the notice. I wish BCIS update the online case status with appropriate information when fingerprint notice is issued.

Frustration of contacting NCSC

I had a frustrating experience in contacting NCSC, the newly centralized customer service for applicants to get case status. I have a Dec/2001 RD case, which has been pending for nearly two years. I called NCSC in June, at that time, the published processing time was 18 months, but NCSC operator who answered the phone insisted the processing time was 19 months and asked me to call back in July. The operator had little knowledge of immigration policy. Instead of asking for my case number, she has asked for my green card number. Without knowing my case number, she said since your case is still pending, you need an interview. I was very frustrated in the end when the operator refused to send a status request to Vermont service center. A month later, I called NCSC again, this time the phone operator said the current processing time is 24 months, call back in Dec, which is inconsistent with the published processing time.