



**POST-DEPORTATION HUMAN RIGHTS PROJECT
CENTER FOR HUMAN RIGHTS AND
INTERNATIONAL JUSTICE AT BOSTON COLLEGE**

885 Centre Street, Newton, MA 02459

Phone: (617) 552-9261; Fax (617) 552-9295

Email: pdhrp@bc.edu

Web: www.bc.edu/postdeportation

Prof. Daniel Kanstroom
Co-Director

Jessica Chicco
Supervising Attorney

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Office of Public Engagement
United States Citizenship and Immigration Services
20 Massachusetts Ave. NW
Washington, DC 20529
VIA E-MAIL: opefeedback@uscis.dhs.gov

Re: Post-Deportation Human Rights Project Comments on USCIS Draft Policy Memorandum: Requests to Expedite Adjudication of Form I-601, Application for Waiver of Grounds of Inadmissibility, filed by individuals outside the United States; Adjudicator's Field Manual (AFM) Update AD 11-10 (PM-602-XXXX)

The Post-Deportation Human Rights Project (PDHRP) at Boston College submits the following comments on the USCIS draft policy memorandum, "Requests to Expedite Adjudication of Form I-601," posted January 13, 2011 (the "Draft Memorandum").

The Post-Deportation Human Rights Project, based at the Center for Human Rights and International Justice at Boston College, is a program designed to address the harsh effects of current U.S. deportation policies. The Project aims to conceptualize an entirely new area of law, providing direct representation to individuals who have been deported and promoting the rights of deportees and their family members through research, policy analysis, human rights advocacy, and training programs. The ultimate aim of the Project is to advocate, in collaboration with affected families and communities, for fundamental changes that will introduce proportionality, compassion, and respect for family unity into U.S. immigration laws and bring these laws into compliance with international human rights standards.

The Draft Memorandum provides guidance on processing requests to expedite the adjudication of Forms I-601 filed by individuals outside the United States. PDHRP

works with and on behalf of individuals who have previously been deported, including individuals who are seeking immigrant visas and require Form I-601 waivers. This policy is of particular relevance and interest to our work, and PDHRP appreciates the opportunity to comment on this draft policy memorandum.

1. Consistency in treatment of I-601 applications and I-212 applications

Individuals outside the United States requiring adjudication of an I-601 waiver application may sometimes also require adjudication of an I-212 Application for Permission to Reapply for Admission Into the United States After Deportation or Removal when seeking admission prior to the expiration of the applicable period of inadmissibility. When an I-212 is filed concurrently with an I-601, both applications are forwarded to the USCIS overseas field office.

Given this existing framework, we suggest that the Draft Memorandum and section 41.7(b)(1) of the *Adjudicator's Field Manual* be amended to clarify that where I-212 applications are submitted in conjunction with I-601 applications, a request and/or decision to expedite the adjudication of the I-601 application be treated as a request and/or decision to expedite the adjudication of the accompanying I-212.

2. Notification of Denial of Expedite Request

The guidance currently states that “overseas field offices are not required to provide negative responses to requests to expedite,” and that applicants who do not receive a response to their request to expedite within 15 days from the date of notice of receipt of the request should presume that their request was denied. AFM 41.7(b)(4). We request that this guidance be amended to instead require overseas field offices to notify applicants of the denial of a request to expedite. Though we recognize that resources are limited, failing to issue denial notices would inevitably lead to numerous inquiries from applicants and their attorneys wishing to check on the status of the request and verify the determination, which could demand as much if not more of USCIS’s resources.

The PDHRP welcomes USCIS’s issuance of guidance on this matter and appreciates the opportunity to comment on this draft policy memorandum. Please do not hesitate to contact us at (617) 552-9261 or pdhrp@bc.edu with any questions.

Sincerely,

Daniel Kanstroom
Co-Director

Jessica Chicco
Supervising Attorney