



CUMMING & PARTNERS
CROSS-BORDER LAW

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CUMMING & PARTNERS NEWS ALERT

USCIS Announces Restrictions on Adjustment of Status Approvals

On May 21, 2026, U.S. Citizenship and Immigration Services (USCIS) issued a policy memorandum reaffirming that the standard, expected pathway to lawful permanent residence in the United States is through ordinary consular visa processing abroad and that adjustment of status (AOS) is a matter of discretion and administrative grace, not an entitlement.

This policy applies to foreign nationals physically present in the U.S. who have filed, or plan to file, an AOS application for permanent residence.

USCIS directs officers to evaluate AOS applications case-by-case, considering the totality of the circumstances. Applicants bear the burden of demonstrating they merit a favorable exercise of discretion for their AOS cases, even if statutory eligibility requirements are met. Key discretionary factors include: compliance with immigration laws and status conditions, any history of fraud, misrepresentation or false testimony, unauthorized employment or status violations, whether the applicant failed to depart as required after admission or parole, evidence of positive equities, such as family ties, humanitarian factors and moral character.

Immigration practitioners expect this policy to face legal challenges in federal court. In the meantime, our firm will monitor how this is applied in practice and provide updates on a regular basis.