



PRACTICE ALERT: TEMPORARY CHANGES TO U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) IN RESPONSE TO COVID-19

By Peggy Gleason and Ariel Brown

** This document will be updated as further changes occur **

Quick Summary of Updates - *Newest updates in orange*

- Field offices have resumed interviews and other in-person services, with social distancing and other health & safety precautions – **page 1**
- The Asylum Office is extending its requirement that applicants use USCIS-provided telephonic interpreters, unless they require a language not available through the government-provided interpreter service, through September 18, 2021 – **page 2**
- USCIS continues to face delays in issuing application receipts – **page 2**
- USCIS updated information on biometric appointments at Application Support Centers – **page 3**
- Copies of signatures accepted in place of original, “wet ink” signatures – **page 3**
- USCIS has extended its allowance for extra time to respond to Requests for Evidence (RFEs), Notices of Intent to Deny (NOIDs), and other responses – **page 3**
- COVID-19 and public charge: as of March 9, 2021, the Trump DHS public charge rule is vacated nationwide and on April 12, 2021 USCIS issued a letter making it clear that COVID-19 care and treatment is not considered for public charge purposes – **page 4**
- Contacting USCIS during the pandemic – **page 4**

USCIS Resumption of Interviews, Other In-Person Services with Modifications for Health & Safety Precautions

Since June 4, 2020, USCIS has reopened its offices to the public after suspending all in-person services, meaning all scheduled adjustment, naturalization, affirmative asylum, and other interviews, Infopass appointments, biometrics appointments at Application Support Centers (ASCs), and all naturalization oath ceremonies, on March 18, 2020¹ through June 3, 2020.² After field offices started reopening on June 4,³ ASCs started reopening in July 2020. Each USCIS office has its own, individualized reopening plan but in general USCIS offices are taking social distancing and other safety precautions including the following:

- Appointments in general:
 - Applicants are directed to reschedule upcoming appointments if they are feeling sick;

- Appointment notices will have information on safety precautions all visitors to USCIS offices must take, such as wearing a face covering and limited entry until a specified amount of time before the appointment;
- In general, visitors will be limited to applicant(s), one legal representative, and one individual providing disability accommodations. Interpreters should join by phone. But see naturalization ceremonies and asylum interviews, below.
- Naturalization:
 - Naturalization ceremonies will be much shorter, and applicants will be given a flyer with links to videos online that are traditionally shown during the naturalization ceremony;
 - Unless the naturalization applicant has a disability and needs another person to provide assistance, no other individuals will be allowed at the naturalization ceremony besides the applicant.
- Asylum office:
 - Asylum interviews will be conducted by video at the asylum office, with applicants in one room and the interviewing officer in another;
 - Legal representatives and interpreters* must appear in-person (*see next section on interpreters);
 - For non-detained credible and reasonable fear interviews, legal representatives will be encouraged, but not required, to join telephonically.

USCIS has a dedicated webpage for updates and more details on offices reopening in light of COVID-19 at uscis.gov/coronavirus.

Asylum Applicants Must Use Government-Provided Telephonic Interpreters at Their Asylum Interviews through September 18, 2021

USCIS published a temporary final rule on September 23, 2020 that requires asylum applicants use DHS-provided telephonic interpreters, rather than bring their own interpreter in person as previously required.⁴ The interpreter service has contract interpreters for 47 languages;⁵ if the applicant needs interpretation in another language, then they must still bring their own interpreter to the interview. If a contract interpreter in one of the 47 languages is not available on the day of the interview, the delay for employment authorization purposes will be attributed to USCIS and the interview will be rescheduled. Should an applicant refuse to proceed with a contract interpreter where one is available in their language, the applicant will be considered to have failed to appear for the interview. See final rule for more details. On March 22, 2021, USCIS published an extension of this temporary final rule, through September 18, 2021.⁶

Delays in Receipting for Applications Filed at USCIS

On December 15, 2020, USCIS issued a stakeholder message notifying the public that COVID impacts and an increase in application filings in recent weeks are causing significant delays for processing receipt notices.⁷ No specific period for the delays was named by the government, besides that applicants should expect receipts “normally within 30 days,” but AILA has received member reports in January 2021 of delays up to two months in USCIS issuing receipts and cashing checks submitted with applications.⁸ More recently, USCIS continues to report delays in issuing receipts, anywhere from four to six weeks or longer depending on lockbox location.

Delays in Biometrics Appointments at Application Support Centers

On December 29, 2020, USCIS issued a stakeholder message concerning the operation of Application Support Centers (ASCs), where applicants for immigration benefits must attend biometrics appointments to complete the submission of their application.⁹ USCIS cancelled 280,000 ASC appointments at 132 ASC offices during the March-June COVID closures of all offices.¹⁰ A phased reopening of the ASCs began in July 2020, after installation of protective screens and development of social distance protocols. Even since July, however, there have been temporary ASC closures depending on local conditions. From July to September 2020, ASCs were operating at below 50 percent of pre-COVID levels.¹¹ By late October, USCIS increased ASC operations to approximately 65 percent of pre-COVID levels.¹² In early 2021, most ASCs are still operating at reduced capacity.

Biometrics Reuse

USCIS announced that it will reuse biometrics under limited circumstances, usually where the agency must verify an individual's identity and the case is otherwise ready to adjudicate.¹³ If USCIS will reuse biometrics for a pending application, the agency will mail a Form I-797 notice to the applicant letting them know that they will be reusing the applicant's biometrics and thus the applicant is not required to appear at an ASC.¹⁴

Copies of Signatures Accepted in Place of Original, "Wet" Ink Signatures

On March 20, 2020, USCIS announced that it will accept reproduced, rather than original, signatures for applications filed after March 21, 2020.¹⁵ No end-date to this policy is indicated in this announcement, but presumably this policy will last through the National Emergency announced by the president on March 13, 2020. Practitioners should retain the originally signed documents, in case later asked to provide them.

Extensions for RFEs, NOIDs, and Other Responses

Since March 2020,¹⁶ USCIS has allowed an automatic 60-day extension to respond to Requests for Evidence (RFEs), N-14 Continuations to Request Evidence, Notices of Intent to Deny (NOIDs), Notices of Intent to Revoke (NOIRs) and Notices of Intent to Terminate (NOITs) regional investment centers, and an extra 60 days to file I-290B Notices of Appeal or Motion and N-336 Requests for a Hearing on a Decision in Naturalization Proceedings, as well as Motions to Reopen an N-400 pursuant to 8 C.F.R. § 335.5.

This extension applies to any of the above-listed requests, notices, or decisions (for which a person intends to file an I-290B or N-336) **issued between March 1, 2020 and June 30, 2021**, inclusive.¹⁷ For responses to RFEs, NOIDs, NOIRs, and NOITs, the extra 60 days is applied *to the original due date*. For I-290B Notices of Appeal or Motion to the Administrative Appeals Office, issued between March 1 and June 30, 2021, USCIS will allow for an extra 60 days *from the decision date*.

Example: Daniel received a Request for Additional Evidence dated June 30, 2020, with a stated due date of September 28, 2020. With the extension, however, he actually has until November 27, 2020 to file a timely response. He does not need to request additional time; the response will not be viewed as late as long as received within 60 calendar days of the original deadline.

Example: Ash received by mail a denial of their naturalization application, dated August 26, 2020. They want to file an N-336 appeal of the naturalization decision. Because the decision

was sent by mail, ordinarily they have 33 days to file the N-336: here, that would be September 28, 2020. However, with USCIS' COVID-related extension, the N-336 deadline is actually October 25, 2020, 60 days from the decision date.¹⁸

Trump Public Charge Rule Officially Vacated Nationwide as of March 9, 2021; April 12, 2021 USCIS Letter on Public Charge Reiterates that COVID-19 Treatment and Care Do Not Count for Public Charge and Health, Housing, and Food Assistance Programs Are Again Safe to Use

After the Biden Department of Justice decided to stop defending the Trump public charge rule in court, multiple pending lawsuits involving the Trump public charge rule that would apply to cases decided by USCIS were dismissed on March 9, 2021, allowing lower court orders enjoining or invalidating the Trump rule to stand. That same date, USCIS immediately stopped applying the Trump public charge rule and returned to following longstanding guidance on public charge from 1999.¹⁹

On April 12, 2021, USCIS issued a letter on public charge confirming that COVID-19 testing, treatment, and preventive care, including the vaccine, will not be considered for public charge purposes and that Medicaid, public housing, and SNAP benefits are again safe to use and also will not be considered for public charge.²⁰

Contacting USCIS During Office Closures and Gradual Reopening

USCIS' Contact Center, reachable online at <https://egov.uscis.gov/e-request/Intro.do> and by phone (800-375-5283), is supposed to be available for emergency requests for service, including requests to schedule Infopass appointments in time-sensitive, urgent situations, for instance emergency advance parole.

End Notes

¹ USCIS, *USCIS Temporarily Closing Offices to the Public March 18-April 1* (Mar. 17, 2020), <https://www.uscis.gov/news/alerts/uscis-temporarily-closing-offices-to-the-public-march-18-april-1>.

² USCIS, *USCIS June 4 Extension of Closure* (Apr. 24, 2020), https://content.govdelivery.com/attachments/USDHSCISINVITE/2020/04/24/file_attachments/1435728/USCIS%20June%204%20Extension%20of%20Closure.pdf.

³ The initial closure was originally intended to last until April 7, 2020, then was extended through May 3, 2020, and finally through June 3, 2020. See USCIS, *USCIS Preparing to Resume Public Services on June 4* (May 27, 2020), <https://www.uscis.gov/news/alerts/uscis-preparing-resume-public-services-june-4>.

⁴ DHS, *Asylum Interview Interpreter Requirement Modification Due to COVID-19*, 85 Fed. Reg. 59655 (Sept. 23, 2020). See also 8 CFR § 208.9(g).

⁵ See list at <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/temporary-final-rule-asylum-interview-interpreter-requirement-modification-due-to-covid-19>; see also Table A in the final rule.

⁶ See 86 Fed. Reg. 15072, USCIS, DHS: *Asylum Interview Interpreter Requirement Modification Due to COVID-19*, (Mar. 22, 2021).

⁷ USCIS, *Stakeholder Message: USCIS Lockbox Updates* (Dec. 15, 2020), https://content.govdelivery.com/attachments/USDHSCISINVITE/2020/12/15/file_attachments/1626831/Stakeholder%20Message%20-%20USCIS%20Lockbox%20Updates.pdf.

⁸ AILA, *ICYMI Practice Alert: Receipt Notice Delays for I-485s and I-140s Filed with USCIS Lockbox* (Dec. 30, 2020), available as AILA Doc. No. 20111936 at <https://www.aila.org/>.

⁹ USCIS, *Stakeholder Message: USCIS Application Support Centers Updates* (Dec. 29, 2020), https://content.govdelivery.com/attachments/USDHSCISINVITE/2020/12/29/file_attachments/1635668/ASC%20Updates.pdf.

¹⁰ See *id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ USCIS, *USCIS Announces Flexibility in Submitting Required Signatures During COVID-19 National Emergency* (Mar. 20, 2020), <https://www.uscis.gov/news/alerts/uscis-announces-flexibility-submitting-required-signatures-during-covid-19-national-emergency>.

¹⁶ USCIS, *USCIS Announces Flexibility for Requests for Evidence, Notices of Intent to Deny* (Mar. 27, 2020); USCIS, *USCIS Extends Flexibility in Responding to Agency Requests* <https://www.uscis.gov/news/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-4> (Mar. 24, 2021).

¹⁷ USCIS, *USCIS Extends Flexibility for Responding to Agency Requests* (Mar. 24, 2021), <https://www.uscis.gov/news/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-4>.

¹⁸ October 25, 2020 happens to be a Sunday, so technically they have until Monday, October 26, 2020.

¹⁹ See USCIS, *Public Charge*, <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge>.

²⁰ See USCIS, *SOPDD Letter to USCIS Interagency Partners on Public Charge*, (Apr. 12, 2021), <https://www.uscis.gov/sites/default/files/document/notices/SOPDD-Letter-to-USCIS-Interagency-Partners-on-Public-Charge.pdf>.



San Francisco

1458 Howard Street
San Francisco, CA 94103
t: 415.255.9499
f: 415.255.9792

ilrc@ilrc.org www.ilrc.org

Washington D.C.

1015 15th Street, NW
Suite 600
Washington, DC 20005
t: 202.777.8999
f: 202.293.2849

Austin

6633 East Hwy 290
Suite 102
Austin, TX 78723
t: 512.879.1616

San Antonio

500 6th Street
Suite 204
San Antonio, TX 78215
t: 210.760.7368

About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.