



U.S. Citizenship and Immigration Services

BASIC

**INTERVIEWING TECHNIQUES
MODULE 208A PART 1**

PARTICIPANT GUIDE

SYLLABUS
COURSE TITLE: Interviewing Techniques**COURSE NUMBER:** 208A Part 1**COURSE DATE:** March 2013**LENGTH AND METHOD OF PRESENTATION:**

Lecture	Lab	P.E.	Total	Program
4:00	0:00	0:00	4:00	BASIC

DESCRIPTION:

This course provides each participant with an idea of the essential actions and behaviors needed to properly conduct all types of interviews. More specifically, it discusses effective interviewing techniques through lecture, while incorporating video shorts and illustrations to achieve student proficiency in conducting an interview. The participants will also be exposed to where we derive the authority to conduct a Service interview, the criteria that must be considered prior to conducting a Service interview, and how an officer should contribute to fostering a more cooperative atmosphere during the interview.

TERMINAL PERFORMANCE OBJECTIVE (TPO):

Given a field situation involving the mock interview of an applicant for immigration benefits, the officer will identify techniques used in conducting an effective interview.

ENABLING PERFORMANCE OBJECTIVE (EPOs):

EPO #1: Identify the authority and purpose for conducting interviews.

EPO #2: Identify the criteria that must be considered prior to conducting an interview.

EPO #3: Identify the elements and steps that must be taken by the officer conducting the interview, which are necessary to create an atmosphere which promotes a successful conclusion to the interview.

STUDENT SPECIAL REQUIREMENTS:

There are no special requirements

METHOD OF EVALUATION:

Written Examination

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OUTLINE OF INSTRUCTION

I. INTRODUCTION

A. Class Opening

Interviewing techniques is the fine-tuned skill of an officer capable of evaluating the credibility of testimony and evidence.

B. Lesson Plan Overview

1. Review TPO and EPO(s) of course 208A Part 1
2. Advise students of the importance of establishing interviewing techniques that will assist them in making efficient and appropriate decisions. Discuss the importance of evaluating and customizing your approach to an interview and its influence on adjudicating immigration benefits.

II. PRESENTATION

A. EPO #1: Identify the authority and purpose for conducting an interview.

1. An Immigration Services Officer (ISO) must know his/her authority to conduct a Service interview.
 - a. Immigration & Nationality Act
 - 1) Section 287 identifies the powers of immigration officers.
 - 2) Section 288 relates to jurisdiction of offices.
 - b. Title 8, Code of Federal Regulations
 - 1) Section 287.5(a)(2) advises of the right to exercise power bestowed upon immigration officers.
 - 2) Section 103.2(b)(9) relates to the Service's authority to request an appearance of the applicant, the beneficiary, the petitioner, in front of an officer of this Service regarding the submitted application for immigration benefits.
 - 3) Section 335.2(a) advises of the Service's authority to request an appearance of the *naturalization applicant* in front of an officer of this Service regarding the submitted application for immigration benefits. An officer must know his/her purpose for conducting a Service interview.

- 4) Section 316.14(a) advises of the Service's authority to conduct an examination to determine eligibility for *naturalization benefits*.
2. The purpose of an interview is to verify information and seek clarification to the answers of the questions listed on applications and petitions in order to make a determination of eligibility pursuant to immigration laws, regulations, procedures, and policies. The purpose is to cover and discover all pertinent information, both favorable and unfavorable, to the applicant in order to consider the totality of the situation and render an appropriate decision.

B. EPO #2: Identify the criteria that must be considered prior to conducting an interview.

1. An officer will be able to properly administer the oath, acknowledge the authority to administer the oath, and take evidence.

- a. Section 287(b) of the Immigration & Nationality Act

“Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have the power and authority to administer oaths...”

- b. Administering a proper oath is crucial to the integrity of the taking verbal information during interviews.

“and any person to whom such oath has been administered under the provisions of this Act, who shall knowingly or willfully give false evidence or swear to any false statement concerning any matter referred to in this subsection shall be guilty of perjury...”

- c. Administering the oath:

“Do you solemnly swear (or affirm) that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?”

2. An officer is more efficient if they build rapport with the clients while conducting the interview.

- a. Officer behavior

- 1) An interview is non-adversarial in nature.

- a. Greet the affected parties in a polite, dignified manner.
- b. Identify yourself, giving your name and title
- c. Begin the interview with an explanation in non-technical terms of the purpose of the interview.

- d. Obtain identification from all parties to establish identity.
- b. Atmosphere within the office
 - 1) The environment should be conducive for interviewing.
 - a. Orderly space
 - b. Minimize disruptions
 - c. Shall make reasonable accommodations for persons with disabilities or special circumstances
 - c. Placement of all parties – no person shall be seated where they can observe the officers computer.
 - 1) Applicant/Petitioner

The applicant/petitioner is the primary participant during the conduction of the interview; consequently, they must always be visible by the officer.

- 2) Attorney/Accredited Representative

The attorney or accredited representative should support their client by sitting where it best facilitates their confidence during the process. The Attorney or accredited representative is present to protect the legal rights of their client and is not expected to answer on behalf of the client.

- 3) Translator/Interpreter

- a. The Translator or Interpreter is a secondary participant, and shall be placed next to the applicant or the officer to assist the Applicant and Translator as well as the Officer and Translator to maintain quality communication.
- b. It is most desirable to have the Translator sit next to the USCIS Officer to ensure that the Applicant is focused on the USCIS Officer's line-of-questioning and not conducting a one-on-one conversation with the Applicant. However, the USCIS Officer must maintain security measures if the Translator sits next to the USCIS Officer and may be able to view the computer screen.

4) Friends and Relatives

The Officer may allow friends and relatives to witness the conduction of the interview **only** if the friend and relative is acting within an official capacity as their translator or as a representative in accordance with 8 CFR Part 1292. Otherwise, all friends and relatives who are unrelated to the adjudication of the petition/application must remain in the public waiting room. Keep in mind that local office policy is controlling in this situation and may allow them to remain in the interview room. Consult with local management for additional guidance.

5) Dealing with Applicants with Disabilities

Impaired Applicants – Additional customer service skills must be used when interviewing applicants with disabilities. When administering the oath to hearing impaired individuals, make eye contact with the applicant, and make note that there is no need to shout, because raising the decibel level of your voice does not convert into a higher level of comprehension to the applicant. Also speak slowly and deliberately if the subject is able to read lips.

3. An officer will be able to identify each affected party and the boundaries of each affected party's role.**a. Officer**

The officer is the facilitator of the interview who establishes the environment, and is the controller of, the interview.

b. Beneficiary

The beneficiary is the primary focus of the interview.

c. Applicant/Petitioner

It is the applicant/petitioner's burden of proof to establish eligibility for the immigration benefit sought. Focus may shift during the interview depending on whether there are several items to consider from within the record. There may be a pending application with an underlying approved petition that the officer must analyze and determine the course of the interview. If an underlying approved petition is the basis of a pending application,

an officer is not expected to re-adjudicate but they must consider any indicators that may warrant a different decision. The ISO should make a notification verifying that they support the underlying decision their determination ultimately will be based on its validity.

d. Attorney/Accredited Representatives

The Attorney or accredited representative is present to protect the legal rights of their client and is recognized by a submission of Form G-28, Notice of Entry of Appearance as Attorney or Representative. The Form G-28 must be filed prior to the interview in order for the attorney to be present during the interview. An officer may verify a person's authority to act as an attorney at any time. When a copy of the I.D. is retained, it should be attached to the Form G-28 for future reference.

An accredited representative is someone who represents an organization as described in 8 CFR 1292.2 that has been accredited by the Board of Immigration Appeals. An accredited representative must:

1. Represent a non-profit religious, charitable, social service, or similar organization established in the United States. The Board of Immigration Appeals (BIA) may designate a representative to practice before USCIS. Only one person from that organization is authorized by the BIA.

Proof of a person's authority to act as a representative may be viewed at <http://www.usdoj.gov/eoir/statspub/raroster.htm>

e. Interpreter

A disinterested party should be employed as an interpreter; however, an officer may exercise judgment and permit a witness, friend, or relative who is competent in the beneficiary's language and the English language to translate for the officer.

Whoever acts as an interpreter must not have a significant tie to the outcome of the case.

The use of an interpreter during the interview process must be recorded on the proper form and retained in the file.

The officer must administer a special oath to the interpreter, prior to administering the oath to the other interview participants.

Oath to the translator:

Do you solemnly swear (or affirm) that in connection with this proceeding you will truthfully, literally, and fully translate the questions asked by me into the _____ language, and that you will truthfully, literally, and fully translate answers to such questions into the English language?"

C. EPO #3: Identify the necessary elements that the officer must consider and the steps that must be taken to facilitate a successful interview.

1. An officer must be familiar with the equipment utilized during the conduction of a Service interview to record the testimony provided by all affected parties and the evidence submitted.
 - a. Familiarize yourself with your computer, video recorder, and electronic data systems before initiating an interview.
 - b. The use of a video recorder is contingent on local office policy, i.e. if fraud is suspected and there is a stated need to have a film archive of the interview.
 - c. Be prepared for malfunctions of the equipment during the interview.
 - d. Follow all practices, policies, and procedures for storage, maintenance, and use of interview equipment. If a video recorder is being utilized during the interview, you must advise all participants by means of a formal statement.
2. An officer must maintain control of the interview at all times.
 - a. Develop Rapport.
 - 1) An officer must maintain a professional demeanor at all times.
 - 2) Speak to all participants in language and semantics appropriate for the situation.
 - 3) Advise all participants of the interview format and clearly direct your questions to the individual you want to answer.
 - b. Guidelines for officer behavior during the conduction of the interview.

An officer's actions during the conduction of the interview must be viewed as reasonable and professional. The officer must not engage in yelling, screaming, or making threats against any of the affected parties.

- a. An officer's mannerisms must exhibit professionalism and courteousness.
 - b. An officer's demeanor must display a positive attitude and forgo demonstration of personal prejudices and emotions.
 - c. An officer's tone must sound rational and one's tempo must be conversational in nature.
- c. Maintaining control under adverse circumstances.
- 1) Examples of adverse circumstances are behavioral distractions, interruptions, fire drill, and confusion with interpretations by the translator.
 - a. Exhibit a firm presence while conducting the interview when appropriate.
3. An officer must be conscientious of time during the conduction of an interview.
- a. Conduct the interview in the amount of time allotted for each interview.
 - b. Notify your supervisor of the extenuating circumstances and the need for additional time.
4. An officer must have superior listening skills throughout the conduction of the Service interview.
- a. Be attentive to each affected party who is providing testimony.
 - b. Do not fall into a habit of assuming typical situations; instead, clarify testimony.
5. An officer will review the declarations denoted on each immigration form with the affected parties during the conduction of the Service interview.
- a. Be able to pose questions listed on immigration forms in non-technical terms. Review and update all information on applications and petitions. Place a check mark next to each question for which you have received a response.

- b. Review submitted documentary evidence to ensure declarations provided on the immigration forms correspond.
6. An officer will pose an alternate line of questioning to each affected party when appropriate for probing credibility and eligibility.
 - a. How to formulate questions
 1. Open-ended
 2. Closed-ended
 3. Follow-up questions
 4. Leading questions
7. An officer will maintain a written record of elicited information during the conduction of the Service interview.
 - a. An officer may use notes to denote file deficiencies upon file preview.
 1. Notes for personal use shall be discarded after the conduction of the interview. If after the conduction of the interview the file still contains deficiencies, then the officer shall issue a RFE, Request for Evidence, outlining the documents necessary to complete the Service record.
 - b. An officer may use notes throughout the conduction of the interview as points-of-reference.
 1. Notes for personal use shall be discarded after the conduction of the interview. Information acquired throughout the conduction of the interview in which the officer deems significant shall be placed into a Memo or on a Referral Sheet so the information will be maintained as part of the record.
 2. The Service has forms for note-taking such as Inter-office/Intra-office Memos, Referral Sheets, and Sworn Statements in order to advise the Service of any factors that may affect the procurement of the immigration benefit.

III. SUMMARY

This course has examined through lecture, discussion, laboratories, and video examples; the appropriate language, structure, legal parameters, regulations, and policy that is expected of an officer when conducting interviews.

Immigration laws, regulations, policy, and SOPs are an officer's guidelines for future reference and were reviewed. Being prepared, maintaining professionalism, and obtaining the tools necessary to conduct an efficient and quality interview are imperative to the job as an officer.

IV. REFERENCES

- A. "Adjudicator's Field Manual," United States Citizenship & Immigration Services. Revised December 2008 edition.

Stage 6: Procedure for the Interview

Overview

This Stage contains the procedures to interview the applicant, examine the application, and determine the applicant's eligibility for benefits sought.

Processing Steps

Files transferred in from a Service Center or other Field Office are reviewed, scheduled for interview (as needed), and shelved. Correspondence relating to the files is processed.

Topic	See Stage
Pre-Interview File Review and Interview Preparation	6A
Interview Procedure	6B

Stage 6A Pre-Interview File Review and Interview Preparation

1. Ensure the file is charged in NFTS to responsible party code
2. Review the Processing Sheet. See I-485 Processing Worksheet Form G-1270.
3. An optional I-485 checklist is provided to aid the case review.
4. Verify that the A-file relates to the applicant. If additional files have been identified, check CIS/NFTS for their location.
5. Review background check results:
 - Fingerprint results or RAP Sheet
 - FBI Name Check Results or LHM
 - TECS ROIQ or Resolution Memo
6. Check the Jurisdiction:
 - See 8 CFR 245.2(a)(1) to determine if jurisdiction lies with EOIR or USCIS.
 - If the address of record is not within the geographic jurisdiction of the field office the case will be forwarded to the field office having geographic jurisdiction.
7. Review the available file(s) for other relevant information.

Stage 6B Interview Procedure

Note: The interviewer shall perform all of the following actions. The first SIX steps must be taken in order at the beginning of the interview. The remaining steps do not necessarily have to be taken in the order given in this list. See "Adjudicators Field Manual (AFM) Chapter 15, AFM Appendix 15-2, and PM-602.0055.1 Representation and Appearances and Interview Techniques; Revisions to Adjudicator's Field Manual (AFM) Chapters 12 and 15; AFM Update AD11-42" for additional interview guidance and policies.

1. Identify yourself.
2. Verify the identity of the applicant, PETITIONER, attorney/REPRESENTATIVE, and interpreter using a passport, driver's license or other government issued photo identification.

3. Confirm the G-28 validity. See 8 CFR 292.1, and PM-602.0055.1.
4. If a G-28 is in the file and the attorney or REPRESENTATIVE is not present, obtain a written waiver.
5. If the applicant and/or petitioner are represented, obtain a G-28 for the file.
Note: The attorney may present a completed G-28 at the time of the interview.
6. Place the applicant, petitioner and interpreter under oath as applicable. Ensure interview notes indicate oath was taken.
7. If this case is a LIFE Legalization application, then determine if a Citizenship Skills test is required. If it is required, then conduct the test. See 8 CFR 245a.17.
8. If the applicant brings originals to the interview they will be compared with copies in the file and returned to the applicant.
9. Review additional documentation that the applicant brought to the interview to determine if the document should be added to the Record of Proceedings
10. Review all underlying petitions, waivers, medical reports, and affidavits of support, and ask the applicant or petitioner about issues that need clarification.
11. If articulable suspicion of fraud is identified, ensure the interview is detailed sufficiently to produce an adequate referral to FDNS. Refer to Stage 7B Interview Outcome – Continued.
12. If the fingerprint response shows two current Rejects, prepare Record of Sworn Statement (Form I-263), and request police clearances for all residences within the U.S. See National Background Identity and Security Checks Operating Procedures (NaBISCOP).
13. Interview the applicant, review application with applicant, and annotate the question you asked and the corrections you made in red ink; also, annotate the "Applicant Interviewed" box on the I-485; date the application, and print your first initial and last name.
14. If the applicant is/was in removal proceedings;
 - Identify type of proceeding (Exclusion, Deportation, Removal, and Asylum only).
 - Determine if removal proceedings are pending, closed or terminated.
 - If you determine that the applicant is within EOIR jurisdiction, terminate the adjustment of status interview but continue with adjudication of any pending petition. If the petition was based on a marriage entered into while the beneficiary was in removal proceedings, see INA 204(g) and 8 CFR 245.1(b)(8).
 - Administratively close the I-485.
 - Refer to Stage 7E Interview Outcome – EOIR for further instructions.
15. If you determine that the alien entered without permission after a final order of removal, and is subject to reinstatement under INA 241(a)(5), proceed to Stage 7F: Interview Outcome – Reinstatement of Removal Order.
16. If the relationship is established and proper documents are in file, the I-130, I-140 and I-360 (as appropriate), should be adjudicated BEFORE continuing the I-485 case.
17. If the applicant appears approvable, proceed to Stage 7C Interview Outcome – Approval.

Note: If the applicant appears for interview, but no longer lives within the jurisdiction of the interviewing office, conduct the interview. Ensure all systems have been updated with the current address. If the case is approvable, the interviewing office will complete the adjudication. If continuance or adverse action is anticipated, issue a Notice of Interview

Results advising the applicant that their case is being transferred to the office having jurisdiction over their new address. No Request for Evidence will be issued by the interviewing office; instead the case will be transferred to the appropriate office with a memo to file or notes indicating that the applicant was interviewed and identifying issues leading to continuance.

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Stage 7: Interview Outcome

Overview

The purpose of Stage 7 is to guide the adjudicating officer in making a proper decision in a timely manner and ensure appropriate notification is provided to the applicant.

Processing Steps

The Interview Outcome Stage has several different procedures, each of which depends on the actual outcome of the interview: Failed to Appear, Continuance, Approval, Denial, EOIR Has Jurisdiction, or Reinstatement of Removal Order. This Stage contains six sections that outline these six separate procedures.

Topic	See Stage
Interview Outcome- Failed to Appear, Denial Due to Abandonment	<u>7A</u>
Interview Outcome – Continuance	<u>7B</u>
Interview Outcome – Approval	<u>7C</u>
Interview Outcome – Denial	<u>7D</u>
Interview Outcome – EOIR Has Jurisdiction	<u>7E</u>
Interview Outcome – Reinstatement of Removal Order	<u>7F</u>

Stage 7A Interview Outcome – Failed to Appear, Denial Due to Abandonment

1. Check the file to determine if the applicant made a request for rescheduling. If request for reschedule has been received, process using local procedures. See Domestic Operations memorandum dated November 23, 2005 Guidance on Evaluating a Request for the Rescheduling of an Interview and Handling the Failure of an Applicant, a Petitioner, a Sponsor, a Beneficiary, or other Individual to Appear for a Scheduled Interview (AFM Update AD06-01).

- 1.1. Notification of Change of Address. The adjudicator must confirm whether the individual required to appear for an interview has submitted notification of a change of address.

The adjudicator is required to:

- Check local pertinent electronic systems, such as CLAIMS, and pertinent physical records, particularly the file of the application or petition under consideration and any AR-11 (Change of Address) notices, to verify whether any change of address notification was received before or after the interview notice was sent.
- Query the USCIS National Systems AR-11 (Change of Address) database by name and date of birth, A-number, and/or I-94 admission number, if necessary, to confirm whether any changes of address have occurred after the interview

notice was generated and mailed.

- Contact the National Benefits Center (NBC) by e-mail at NBC Failure to Appear Review, if necessary, to determine if the Service Request Management Tool (SRMT) contains a pending change of address notification.
2. If the application is a LIFE Legalization application, then complete the following steps:
 - 2.1. Review the file to ensure that the notice was sent to the last known and complete address.
 - 2.2. If the notice was sent to the last known address, then determine if the notice was for the first or second interview.
 - 2.3. If the notice was the first notice, and 30 days have elapsed since the scheduled interview date, go to Stage 5C and reschedule. See 8 CFR 245a.19(a).
 - 2.4. If the notice was the second notice, proceed to step 3. See 8 CFR 245a.19(a).
 3. If the applicant or attorney/REPRESENTATIVE of record has not made a request for rescheduling or responded to the request for evidence, deny the application for abandonment (Step 4). See 8 CFR 103.2(b)(13).
 4. Abandonment Denial
 - 4.1. Conduct Just in Time (JIT) background checks. See Field Operations "Just in Time Checks Questions and Answers."
 - 4.2. Mail the denial notice to the applicant and attorney/REPRESENTATIVE of record. Retain a copy of the denial notice on the top left side of the file. Note: The denial notice must include motion rights. See 8 CFR 103.5.
 - 4.3. Refer the I-485 for further action, as appropriate. Examples:
 - Reinstatement to prior status.
 - Referral to FDNS.
 - Notice to Appear. See Policy Memorandum 602-0050, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens.
 - Referral to ICE.
 - Visa waiver removal. See Policy Memo PM-602-0029 titled "Guidance for Coordinating the Adjudication of Applications and Petitions Involving Individuals in Removal Proceedings; Revisions to the Adjudicator's Field Manual (AFM) New Chapter 10.3(i): AFM Update AD 11-16."
 - Other action as directed by Supervisory Immigration Services Officer
 - 4.4. Complete the Action Block on the I-485 to reflect denial.
 - 4.5. Consolidate files if appropriate and as necessary.
 - 4.6. Update denial in ICMS.
 - 4.7. Update I-485 Processing worksheet Form G-1270.
 - 4.8. Record denial on currently used statistical reporting tools.
 - 4.9. The file will be held for 40 days in case a Motion to Reopen or other correspondence is received.
 - 4.10. Charge the file in NFTS and route to appropriate location.

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Stage 7D Interview Outcome – Denial

1. Prepare Notice of Intent when required; if not required, proceed to step 2. See 8 CFR 103.2(b)(16)(i); PM-602-0040: Change in Standard Timeframes for Applicants or Petitioners to Respond to Requests for Evidence; Revisions for Evidence; Revisions to Adjudicator’s Field Manual (AFM) Chapter 10.5(b), Chapter 25.2(e)(3), Chapter 38.1(e)(6), and Appendix 10-9; AFM Update AD11-36 – July 7, 2011.
 - 1.1. Forward Notice of Intent to your supervisor for review.
 - 1.2. After review and concurrence by the supervisor, notify the applicant and attorney/REPRESENTATIVE of record in writing. Retain a copy of the Notice of Intent on the top left side of the file. See 8 CFR 103.2(b)(13) & 8 CFR 103.2(b)(15).
 - 1.3. Update ICMS with “Notice of Intent to Deny Sent.” See ICMS User Guide
 - 1.4. Charge file to appropriate NFTS code and place file in holding location according to local procedure.
 - 1.5. If a response is received then adjudicate and proceed to the appropriate stage of the application process.
2. Prepare and serve the denial.
 - 2.1. Denial review will be discretionary. Forward all denials for supervisor review that are required by your field office management.
 - 2.2. Perform Just in Time TECS checks.
 - 2.3. Notify applicant and attorney/REPRESENTATIVE of record in writing. Retain a copy of the denial letter on the top left side of the file.
 - 2.4. Complete the Action Block on the I-485 with a denial stamp to reflect the denial or annotate “Administratively Closed” as appropriate.
 - 2.5. Update the I-485 Processing Worksheet to reflect the denial.
3. Ensure documents supporting denial (NOID, response and denial) are placed on top of the application. See ROP, Appendix D.
4. Verify that all petitions and applications have been closed out in C-3, ICMS etc. See ICMS User Guide
5. Initial and processing worksheet Form G1270.
6. Update ICMS to indicate “Denial notice sent.” See ICMS User Guide
7. The file will be held for 40 days in case a Motion to Reopen or other correspondence is received.
8. Refer I-485 for further action, as appropriate. Examples:
 - 8.1. LIFE Legalization:
 - If the application is a LIFE Legalization application, then hold the file in accordance with 8 C.F.R. 245a.20(b)(1).
 - If an appeal is not received, then forward the file to the National Records Center-(NRC).
 - If an appeal is received, process it in accordance with 8 CFR 245a.20(b).
 - 8.2. Referral to Fraud Detection and National Security (FDNS).
 - 8.3. Notice to Appear. See PM – 602-0050; Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable

Stage 8: Post-Decision Processes

Overview

The purpose of these steps is to allow for review of a previously rendered decision.

Processing Steps

This Stage contains three different processes, each of which addresses a specific area of I-485 post-decision adjudication:

Topic	See Stage
Process for Motions to Reopen or Reconsider Filed by the Applicant	<u>8A</u>
Process for Motions to Reopen or Reconsider Filed by the Service	<u>8B</u>
Process for Rescissions	<u>8C</u>

Stage 8A Process for Motions to Reopen or Reconsider (MTR) Filed by the Applicant

1. Fee collected and processed at the Lockbox.
2. MTR receipt file is forwarded to NBC for processing and forwarding to appropriate Field Office.
3. Field Office joins the MTR receipt file with the A-file.
4. Field Office routes file for adjudication.
5. Officer adjudicates the motion.
 - 5.1. Ensure MTR (I-290B) was filed within 30 days of the date on the form I-485 denial notice (33 days if denial was mailed). An untimely motion may be accepted for good cause.
 - 5.2. Review the motion to determine if reopening of form I-485 is merited.
6. If the officer grants the motion, complete the following steps:
 - 6.1. Notify the applicant and attorney or REPRESENTATIVE of record that the application will be reopened or reconsidered, and a new decision on the application will be made. A copy of the notification will be placed on the left side of the file on top of the application.
 - 6.2. Update ICMS with Motion action, as appropriate.
 - 6.3. Review and place the application in the appropriate stage/step of the process. Note: identify Special Handling cases.
 - 6.4. Capture statistics in appropriate system as they relate to the MTR. If the MTR is approved, the statistics should indicate that the application or petition has been reopened.
 - 6.5. Charge the file in NFTS.
7. If the officer dismisses the motion, complete the following steps:
 - 7.1. Notify the applicant and attorney or REPRESENTATIVE of record that the application will not be reopened or reconsidered, and a new decision on the application will not be made; also, provide notification of any right to re-file. A copy of the notification will

be placed on the left side of the file on top of the application.

7.2. Update ICMS with Motion action, as appropriate.

7.3. Charge the file in NFTS and capture statistics in appropriate systems.

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Stage 8B Process for Service Motions to Reopen or Reconsider (MTR)

1. Review of the case by an officer reveals that a new decision needs to be made or USCIS is notified of an administrative error. See “Expedited Case Review Process for Specifically-Defined Administrative Errors” [IM-602-0059](#)
2. If the new decision on the application is favorable to the applicant, and the case can be approved, complete the following steps: See [8 CFR 103.5\(a\)\(5\)\(i\)](#).
 - 2.1. Notify the attorney or REPRESENTATIVE of record of the approval of the case in question and place a copy of the decision on the left side of the file on top of the application.
 - 2.2. Update ICMS with Motion action, as appropriate (i.e. “Reopened or Reconsidered on Service Motion”).
 - 2.3. Review and place the application in the appropriate stage/step of the approval process Refer to [Stage 7C: Interview Outcome— Approval](#). Note: identify SPECIAL HANDLING cases.
 - 2.4. Charge the file in NFTS and capture statistics in appropriate system.
3. If the new decision on the application is unfavorable to the applicant, complete the following steps:
 - 3.1. Notify the applicant and attorney or REPRESENTATIVE of record that the Service is making a new decision and that the applicant has 30 days to provide a rebuttal. Place a copy on the left side of the file on top of the application.
 - 3.2. Update ICMS with Motion action, as appropriate.
 - 3.3. If a rebuttal is received, proceed to Decision Outcome as appropriate (refer to the appropriate Interview Outcome Stage ([Stage 7](#))).
 - 3.4. If a rebuttal is not received, prepare final notice (refer to [Stage 7D: Interview Outcome – Denial](#)).
 - 3.5. Charge the file in NFTS and capture statistics in appropriate system.

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II. A EPO #1: Identify occasions when a Request for Evidence (RFE) and/or a Notice of Intent to Deny (NOID or ITD) comply with regulatory and USCIS policy guidance.	4
II. B EPO #2: Identify the structure and content of an RFE, a NOID, and a Denial notice.	7
II. C EPO #3: Identify the appropriate actions to take with regard to Motions to Reopen, Motions to Reconsider, Appeals, Certifications and Withdrawals.	17
III. Summary	23
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When to Open on Service Motion

Case was denied or revoked in error

Denial was incomplete (*only if appeal or motion has not yet been filed*)

Timely evidence was not matched with the file prior to denial



U.S. Citizenship
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