Office of the Citizenship and Immigration Services Ombudsman

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NAFSA Region IV Regulatory Ombudsperson for Student Issues

Assisting individuals and employers in resolving problems with USCIS

October 15, 2020





Reminders Before We Begin When things go wrong

- Attempted to resolve with USCIS?
- What documentation do they have to prove their claim?
- Recommend
 - Document, document, document!
 - When mailing document, always send by courier/service with tracking information





Independent, confidential, and impartial, the Ombudsman's Office is *not* part of USCIS.

- Assists with individual requests for assistance.
- Issues recommendations to USCIS, including an Annual Report to Congress, proposing solutions related the delivery of immigration benefits.
- Hosts conferences, listening sessions, and meetings to address stakeholder concerns.
- Meets with federal agencies to foster interagency cooperation on a variety of immigration issues.



The Ombudsman Can Help With:

- Cases past processing times
- USCIS' failure to schedule appointments, interviews, oath ceremonies, etc.
- Improper rejections, lost/transferred files, mailing issues
- Clear errors of fact or misapplication of law
- Ongoing, systemic issues



The Ombudsman CANNOT

- Communicate with anyone but the applicant/petitioner or attorney about a case, without written permission. The applicant/petitioner must submit case inquiry to our office.
- Compel USCIS to take action on a pending application/petition.
- Rectify actions resulting from bad information given by attorneys or DSOs.
- Engage on issues that are solely in the purview of another government Dept.



Exhaust USCIS Remedies

- ☐ Check USCIS processing times:
 - https://egov.uscis.gov/processing-times/
- Check Case Status Online/MyUSCIS
- ☐ Make an inquiry through:
 - **USCIS** Contact Center: 1-800-375-5283
 - Online Inquiry

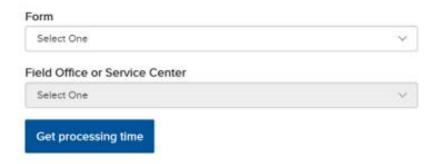




Check Case Processing Times

Select your form number and the office that is processing your case

For more information about case processing times and reading your receipt notice, click here.



Other case processing times resources

When to expect to receive your Green Card Processing information for the I-765

Affirmative Asylum Interview Scheduling Administrative Appeals Office International Offices

Historical Average Processing Times

Inquire about a case outside normal processing time

Check your case status

Update your mailing address

Ask about missing mail

Correct a typographical error

Request appointment accommodations

How we process cases

This time range is how long it is taking USCIS to process your case from the date we received it. We generally process cases in the order we receive them, and we will update this page each month. The estimated time range displayed is based on data captured approximately two months prior to updating the page. Please note that times may change without prior notice.

We have posted a "Receipt date for a case inquiry" in the table below to show when you can inquire about your case. If your <u>receipt date</u> is before the "Receipt date for a case inquiry", you can submit an "outside normal processing time" service request <u>online</u>.

Notes

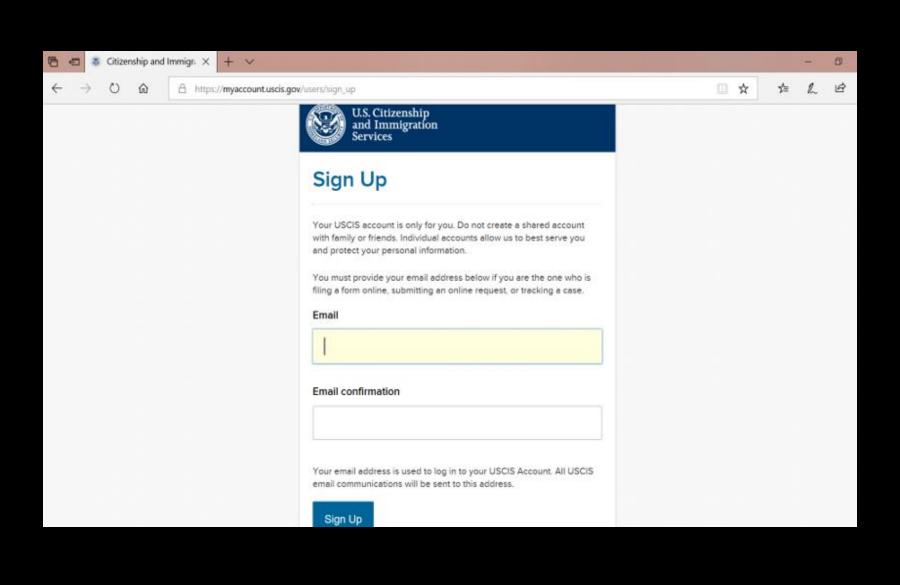
If you are applying for your initial (first) employment authorization based on having a pending asylum application and USCIS does not adjudicate the application within 30 days, you may be a member of the class action case, Rosario v. USCIS, Case No. C15-0813JLR. Please see www.uscis.gov/rosario for further information about this class action case.

Estimated time range	Form type	Receipt date for a case inquiry
2 Months to 5 Months	Based on a request by a qualified F-1 academic student [(c)(3)]	May 15, 2020
2.5 Months to 4.5 Months	Based on a pending asylum application [(c)(8)]	June 02, 2020
2.5 Months to 5 Months	All other applications for employment authorization	May 15, 2020

Other case processing times resources

Case management tools

Inquire about a case outside normal processing time



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	Case Information					
	Form Number					
	- Select One V					
	Form Sub Type					
	- Select One	V				
	Receipt Number ? Date Filed (MM/DD/YYYY) ?					
	Applicant or Petitioner Information					
	First Name Middle Name(optional) Last Name					
	□ No First Name					
	Please check if you do not have a first name					

Ombudsman's Request for Assistance Form, DHS-7001

- Submit online at www.dhs.gov/cisombudsman
- Include:
 - A brief summary of the issue
 - USCIS receipt numbers, including for underlying petitions
 - Copies of relevant documents
 - Written consent of student/scholar to speak with DSO (or signed G-28 if legal representative)



What Happens After Submitting a Request for Assistance?

- Supervisors conduct triage, looking for urgent cases that meet USCIS expedite criteria. These cases are submitted to USCIS within 10 days.
- Requests are reviewed for completeness, including proper consent, prior attempts to resolve with USCIS, and other necessary documentation.
- The case is then assigned to Immigration Law Analyst, who will contact USCIS field office, service center, or other USCIS office to resolve the inquiry.



Contact Us

Website: www.dhs.gov/cisombudsman

Phone: 1-855-882-8100

- For general/policy inquiries: cisombudsman@hq.dhs.gov
- For public affairs inquiries, such as information relating to a teleconference or stakeholder engagements:
 <u>cisombudsman.publicaffairs@hq.dhs.gov</u>





What can someone do if the USPS lost their document? (Not applicant's fault, not USCIS's error)

What happens when documents are returned to USCIS?

What can someone do if they receive an RFE from USCIS that is asking for incorrect information?



REQUEST FOR EVIDENCE

You did not submit any evidence for this requirement.

You may submit additional evidence to satisfy this requirement. Evidu

A copy of an employment effer letter that describes the nature of

relationship and the services to be performed by the beneficiary

• A copy of relevant portions of valid contracts, statements of we agreements, and letters between you and the authorized officials

numies to whom the end product or services weeked on by the

companies to when the oils product or services unified on by the A capy of a position description or any other documentation that perform the job offered, the tools needed to perform the job, the service to be provided, the needed of payment, whether the ward your regular basises, the provision of employee benefits, and the benefits that you you.

Copies of your most secently filed federal income tax return incl

that outlines, in detail, the products or services provided by you

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CIS), seeki

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occupation work.

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE NUMB NOTICE MUST BE SUBMITTED WITH THE REQUESTED EVID

Your response must be received in this office by Navem

Prison one that you have need number the macritism paties allowed for a Polithonic (NFE, 19 the time period for responding current be extended. This Regulation (8 CFR) § 103.2(NFE); 19 houses many immigration benefit concurring to the proposal or this requires a early as possible, but to later the above. If you do not require for this notice within the allosted time, your or regulations do not provide for an attention of time to notify the require-tion of the provided of the provided of the notice of the provided of the notifies the squares.

USCIS within 66 days of responding, you may contact the USCIS Contact If you are bearing impaired, please call the USCIS Contact Coster TDD a

specific specialty, or its equivalent, for the position.

You did not submit any evidence for this criterion. Thus, you have not established eligibility under

You may still submit evidence to establish eligibility under this criterion. Evidence may include, but

- An organizational chart showing your hierarchy and staffing levels with corresponding educational and experience requirements for the positions. The educational requirements should include the field of study (e.g. computer science) in addition to the educational level
- (e.g. bachelor's degree).

 Copies of present and past job postings or announcements for the proffered position showing that you require or, if the beneficiary will perform services for an end-client, the end-requires applicants to have a minimum of a bachelor's or higher degree in a specific :
- - for the position;
 Copies of employment or pay records identifying past and present employees
 - Opinion:

 Copies of degrees and/or transcripts to verify the level of education and field seath individual abred for this position in the last two years. Additionally, you vidence to establish the duries that the individuols performed, such as official descriptions, job offer letters, job postings, or performance review; and Ast organizational chart of diagram, showing your opinional reviews as more present than the property of the property of the description of the property of the description of the property of the prop
- Documentation which lists the educational, experience, training, and skills requirem
 offered position, such as official position descriptions, job offer letters, or job postin

4. Nature of Specific Duties So Specialized and Complex

You may establish eligibility by demonstrating that the nature of the specific chaics of the constitution are so specialized and complex that the knowledge required to perform these dates associated with the attainment of a backelors' degree or higher in a specific specialty, or its

Here, you have not shown that the duties of the position are so specialized and complex the knowledge required to perform these duties is usually associated with the attainment of a b degree or higher in a specific specialty, or its equivalent. Thus, you have not established el

You may still submit evidence to establish eligibility under this criterion. Evidence may it

- An explanation of the specific duties, as they relate to your products and services, a nature of those duties of the offered position are so specialized and complex, that th usually associated with the attainment of a back-lor's degree or higher in a specific study; provide an explanation of what differentiates your products and services from employers in the same industry. Be specific and provide documentation to support a
- explanation of specialization and complexity.

 Copies of letters or affidavits from firms, individuals, professional associations, or

To process your petition and determine if you and the beneficiary are eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each eligibility

- . Submit one, some, or all of these items;
- Submit none of the suggested items and instead submit other evidence to satisfy the request;
 Explain how the evidence in the record already establishes eligibility; and/or
- Request a decision based on the record.

Note, however, that as the petitioner, you are responsible for providing evidence that you and the beneficiary meet all requirements. Evidence must show that all parties w the requested benefit when you filed the Form I-129 by a preponderance of the evider

Do not include with your response copies of documentation previously submitted.

If you are submitting evidence in response to this request, USCIS recommends that y

. An index of the evidence and include corresponding tabs for each section of e Clear and legible copies of the evidence. If legible copies are not possible, ye original documents. Original documents, however, will be returned only if re

USCIS checks all petitions filed for this classification in its Validation Instrument fo Enterprises (VIBE) system. VIBE uses commercially available data to validate basis about organizations petitioning to employ foreign workers. For more information at visit the USCIS website at www.uscis.gov/VIBE

Labor Condition Application

For an H-1B petition involving a specialty occupation worker, you are required to st

- · A certification from the U.S. Department of Labor (DOL) that you have filed 9035/9035E Labor Condition Application for Nonimmigrant Workers (LCA)

 • A statement that you will comply with the terms of the LCA for the duration beneficiary's authorized period of stay.
- You indicate that the beneficiary will provide services in more than one location. H that you submitted does not include all the locations of intended employment.

Submit a valid LCA(s) that properly corresponds with your petition and has been or Eligibility for H-1B employment must be established as of the date of filing the For ECA must have been certified prior to the filing of the Form I-129.

utsetting that the nature of your products and services are so epicialized and complex that a backstor's lovel of adocation, or higher, in a specific field of study is a prerequisite for entry into the offered position. Any letter or affidants should be supported by documentation of the

- Completion of a Bachelor's or Higher Degree in a Specific Spe

- It lodd a United States backedor's or higher degree required by the specialty according celling or university;

 2. Holds for the proper determined to be upon where to a United States have been degree required by the specialty occupation from one of degree required by the specialty occupation from the Niedla me specialty where the specialty occupation for the specialty occupation which states the property of the specialty occupation and be immediately engaged in that of intended employment; or a state to proposed by responsible eagurement.

USCIS interprets the term degree to mean not just any degree, but a degree in a related to the position. Accordingly, you must show that the beneficiary has obtaining degree or its equivalent that is required by the specialty occupation.

To show that the beneficiary possesses a bachelor's degree or higher or its equivily the position, you submitted:

Additionally, the record shows that the beneficiary appaged in a course of study did not provide an evaluation of the beneficiary's foreign education to show the foreign education is equivalent to a U.S. backeler's degree or higher in a specific

vistion of the beneficiary's duties; • A certified Labor Condition Application (LCA).

Specific Duties of the Offered Position and Nature of Business Operation

USCIS does not use the job title, by itself, when determining whether a par a specialty occupation. The specific duties of the offered position, combini petitioning entity's business operations, are factors that USCIS considers.

In addition to providing evidence relating to the specialty occupation quali-below, provide evidence that details the specific duties of the proffered por business operations. Evidence may include, but is not limited to:

- usited statement from your company to:

 Explain the actual duties the beneficiary will perform;

 Indicate the percentage of time devoted to each daty;

 State the education, experience, training, and special skills or duties; used
- Explain how the educational requirements relate to the posi
 A copy of a line-and-block organizational chart showing your hier-
- izational chart should:
- The erganizational chart should: List all divisions in the organization; sloothfy the profifered position in the chart; sloothfy the profifered position in the chart; show the names and job titles for those persons, if any, whese wor control of the proposed position; and indicate who will direct the beartficiary, by name and job title.
- · Reports;
- . Hyalustions
- Business plans, reports, and presentations to describe your business
- Contractual agreements or work orders from each company who we services showing that the beneficiary will be performing specialty.
 Promotional materials, advertisements, articles, and/or press releases.
- Patents.
 Copies of documentary examples of work products created by cur
- similar positions, such as:

 Additional information about your org your business enterprise, along with evidence to establish

the duties you have set forth, such as:

To qualify as a specialty occupation, the position must meet at least or

ion in the United States.

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to, a combination of the following or similar types of evidence: Cepies of the beneficiary's college or university transcripts, which include all course toward the degree. The transcripts should be signed and dated by the person in charge

Documents to show that the beneficiery's knowledge and education are dis-

ition is a specialty occupatio

tical application of a body of

or's degree or higher in a sp

- Documents to show these means are measured. The properties of the

- resolution service dut specializam in evaluating foreign scheational rendominis.

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- particular official is authorized to grant college-level credit on behalf of their in holds a bachclor's or higher degree in the field of study or a closely related field evaluating. The evaluation should also be accompanied by with a continuous control of the grant of the control of the co

Requirement

- . Conics of affidavits or letters from present or fo
- Copies of personnel records.

 The theoretical and practical application of specocapation:

 That the beneficiary's experience was guined where the control of the control o
- - some specialty occupation; Membership in a recognized foreign or United nerial by or about the heneficiary

You may establish eligibility by showing that a bachelor's degree or higher in a specific specialty, or equivalent, is normally the minimum requirement for entry into the particular position.

The evidence you submitted is insufficient to establish eligibility under this crite

You provided a brief description of the duties and a sertified Labor Condition Application (LCA) from the DOL indicating that the proffered position is a Software Developer position.

The duties as described do not establish the depth, complexity, level of specialization, or substantive aspects that would require someone with a bachelor's degree or higher in a specific specialty, or its ivalent, as the normal minimum requirement for entry into the particular po-

You have not shown that the proffered position requires a specific specialty, or its equivalent, as the normal mi-position to perform the duties that you described.

You may still submit evidence to establish eligibility u

- Relevant documentation from an authoritative of duties, work environment, education, training, the occupation. Include a statement describing mation listed in the career guide and how the that a bachelor's or higher degree in a specific minimum requirement for the partie

 Any evidence you believe will estab smally the minimum requirement for entry in
- 2.a. Degree Common to the Industry

You may establish eligibility by showing that the degr in a specific specialty, or its equivalent, is common to

You may still submit evidence to establish eligibility

· A detail

Payroll Records Change of States: The record indicates that the benefitiary is currently as F-1 recimenigment and is now detemping to change states to an II-18 nonintarigurat. We the benefitiary's payroll excords with the beneficiary's current unplayer for the prints from 2020 to April 30, 2020. However, this evidence does not show that the beneficiary smittle benefitiary's nontransgeness and as at the time the Penn-1-123 was filled.

- Lettlers from indivery cited perfections all modeline indivesting the fields or praintenant models on select and recruit new deleteration of the control of

1.b. Position So Complex or Unique

However, the chiese as chemistrated part or exhibit the depth, compicity), best of equationation is a statistical to the chiese as forwards of a control to the chiese as forwards as the chiese as th

Letters from an industry-related professional association indirecting that the particular pool is so complete or unique that it can be performed only by an individual with a backelor's or higher in a specific specialty, or its equivalent.
 Copies of locest or affidavits from firms or individuals in the industry offesting that the

• The name of the course and course code in which the beneficiary is or was enrolled that

 Documentary evidence that immediate participation in CPT was required for the beneficiary's Documentary evidence establishing both the beneficiary's current major and that CPT is/was an

integral (essential) part of the beneficiary's degree program at

Letter(s) from the beneficiary's CPT employer(s), explaining the beneficiary's job duties, pa and period of employment;

• Evidence of the cooperative agreement(s) between the beneficiary's CPT employer(s) and the

. Evidence that the beneficiary's CPT is or was directly related to the beneficiary's major area of

F-1 Optional Practical Training: Since the evidence of record indicates that the beneficiary is or was rticipating in Optional Practical Training (OPT), provide the following or similar documentation

. Students engaging in initial F-1 post-completion OPT may not accrue an aggregate of more than 90 days of unemployment during the initial post-completion OPT period. Students granted the 17-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total OPT period including any initial OPT and the 17-month OPT extension. Shadents granted the 24-month OFT extension may not accrue an aggregate of more than 150 days of unemployment during the total OFT period including any initial OFT and the 24-month OFT extension. Further, students engaging in E-I post-completion OFT must engage in at least 20 hours or more per week of employment that is directly related to the student's U.S. major of study. Lastly, unpaid internships may meet the OPT employment requirements if the internship is directly related to the student's U.S. major of study and the internship complies with all labor laws. Please provide evidence that the beneficiary maintained the beneficiary's

F-1 status during post-completion OPT. Evidence may include but is not limited to the A list of all employers the beneficiary has worked for under post-completion OPT and

the periods the beneficiary worked for those employers;

Copies of all pay records / stubs for the beneficiary from the starting date of post-completion OPT to the present time; and . Evidence that the beneficiary worked at least 20 hours or more per week in a position

that is directly related to the beneficiary's U.S. major of stu PLEASE RETURN THE REQUESTED INFORMATION AND ALL SUPPORTING DOCUMENTS

WITH THIS ORIGINAL REQUEST ON TOP TO: U.S. CITIZENSHIP AND IMMIGRATION SERVICES

LAGUNA NIGUEL, CA. 92607-0590

How do school officials advise on processing times – when the times only seem to keep changing?

Where does F-1 Reinstatement fall, in the I-539 processing time categories?

Postmark Date?

Date Received?

Q&A

Filing Deadlines

Fee Increases

New Form Editions

New Premium Processing Updates for F/M/J case types?

DACA – New Applications?

Incorrect Petition Denials

Success Stories!

Engaging with NAFSA



http://issuenet.nafsa.org/

International Students & Scholars

Report an Issue

Inform the International Student and Scholar Regulatory Practice Committee about emerging trends or government obstacles related to international students and scholars.





Get Liaison Help

Submit a request to the Regulatory Ombudspersons Subcommittee for assistance with specific immigration cases at USCIS Service Centers.



Get Liaison Help

Thank you for listening today!