

## USCIS Memo on I-485 Filings Upends Immigration World



By [Andrew M. Wilson](#)

May 26, 2026 | **IMMIGRATION**

### **Key Takeaways**

- A May 21, 2026, USCIS policy memo reframes I-485 adjustment of status as "extraordinary relief" rather than a standard benefit, directing officers to evaluate applications on a case-by-case basis with broad discretionary authority to deny.
- The memo signals a shift toward treating consular processing as the default path for immigration applicants, making U.S.-based adjustment of status filings significantly more vulnerable to denial.
- This policy is not entirely new, building on a November 2020 USCIS memo that first expanded officer discretion, but the current administration's tone and direction represent a meaningful escalation in enforcement posture.

In 2021, I wrote an article for Corporate LiveWire's Immigration Guide entitled "[A Points-Based Immigration System Hiding in Plain Sight: USCIS Discretion to Deny I-485 Adjustment of Status Filings.](#)"

That article contained a few prescient points:

“I should never underestimate, however, any administration’s ability to circumvent Congress and the legislative process by implementing new regulatory rule changes and updated policy guidance memos.”

“In addition, a November 17, 2020 USCIS Policy Manual update provides USCIS even more discretion to deny I-485 filings. This policy update makes the I-485 review process almost a points-based system open to subjective determinations.”

The article identified a risk that the I-485 review process could become subject to capricious determinations. It was unsettling that the memo reads:

“The favorable exercise of discretion and the approval of a discretionary adjustment of status application is a matter of administrative grace, which means that the application is worthy of favorable consideration.”

“An applicant who meets the other eligibility requirements contained in the law is not automatically entitled to adjustment of status. The applicant still has the burden of proving that he or she warrants a favorable exercise of discretion.”

The November 17, 2020, policy memo was largely ignored, likely because it came at the end of the first Trump administration.

Fast forward to May 21, 2026, & USCIS just released a policy memo entitled “Adjustment of Status is a Matter of Discretion and Administrative Grace, and an Extraordinary Relief that Permits Applicants to Dispense with the Ordinary Consular Visa Process”. The title alone is a shock to the immigration system, but the language & tone of the news release from USCIS is even more alarming. In part, it reads:

"U.S. Citizenship and Immigration Services today announced a new policy memo reiterating the fact that, consistent with long-standing immigration law and immigration court decisions, aliens seeking adjustment of status must do so through consular processing via the Department of State outside of the country. Officers are directed to consider all relevant factors and information on a case-by-case basis when determining whether an alien warrants this extraordinary form of relief."

While this is described as a “new policy memo”, it is not a complete surprise to anyone tracking prior USCIS policy releases. Although much more aggressive, this is simply a continuation of a movement outlined in the November 2020 memo to highlight what is interpreted as authority to deny adjustment of status filings on a discretionary basis. For further questions about the content and implications of this memo, please contact immigration practice team co-leader Andrew M. Wilson at [awilson@lippes.com](mailto:awilson@lippes.com).

**Disclaimer:** *The information in this post is provided for general informational purposes only, and may not reflect the current law in your jurisdiction. No information contained in this post should be construed as legal advice from our firm or the individual author, nor is it intended to be a substitute for legal counsel on any subject matter. No reader of this post should act or refrain from acting on the basis of any information included in, or accessible through, this post without seeking the appropriate legal or other professional advice on the particular facts and circumstances at issue from a lawyer licensed in the recipient's state, country or other appropriate licensing jurisdiction.*