

Minutes of the National Benefits Center/Florida Bar Liaison Telephone Conference
Wednesday, June 10, 2009

On behalf of the Florida Bar:

Larry S. Rifkin & Fox-Isicoff
Elaine Weiss

1. File consolidation: we have asked before but members still have situations where they go to the interview and local office only has T-file, especially in cases that had previous employment based cases. What can we do to avoid this? In the response to an RFE, NBC was advised that client had EB5 case pending at CSC; but at the time of the interview in the Kendall office, there was no CSC file.

Prior to sending an application to the Field Office for interview, NBC requests all associated files during our front-end process from other Field Offices or Service Centers. NBC requests associated files on the 30th, 60th and 90th day from the date of the initial request. The application may be held until day 120, awaiting response, before NBC sends it to the Field Office.

Regarding the two employment cases referenced, NBC requested the associated files from the California Service Center (CSC) on three occasions; however, the CSC did not release the files. In both cases, the Field Office needed to work with the Service Center to obtain the A files or to obtain information from the files.

2. Change of address when case is scheduled: when applicant moves out of jurisdiction where interview is scheduled after NBC transfers file and failed to file AR-11, what is the procedure to have file transferred and scheduled in proper jurisdiction? Through the local office where interview was originally scheduled? Through NBC? Through 1 800 #? All three?

NBC is not responsible for de-scheduling an applicant interview under these circumstances. Once an applicant is scheduled for interview, the applicant should notify the USCIS Field Office with jurisdiction, via the National Customer Service Center (NCSC) at 1-800-375-5283, of any problems with their interview, etc.

If the applicant has a pending I-485 application which has been scheduled for interview, and their new address has placed them in a different jurisdiction, they should call the NCSC. By calling the NCSC the applicant may:

- inform the previous Field Office that they cannot attend their interview because of an address change, and
- inform the new Field Office of their need to schedule an interview in that jurisdiction.

The new Field Office is responsible for scheduling the applicant for interview and will request the applicant's alien file from the previous Field Office.

3. Appointment notices on Family Based I-485 cases provide a lengthy list of documents that applicants must bring to their interviews. Among them is a request for an I-864 and

all documentation required in support of the I-864. Now that your office is adjudicating I-864s prior to setting the adjustment interviews, must applicants really still bring these materials? And, assuming the answer is “no,” what can be done about omitting that language on the appointment notices?

The I-797C, Notice of Action, Request for Applicant to Appear for Initial Interview, states under the section YOU MUST BRING THE FOLLOWING ITEMS WITH YOU:

- A completed Affidavit(s) of Support (Form I-864) with all required evidence, including the following, for each of your sponsors (unless already submitted.)

Per the interview notice, the applicant or representative is not required to bring these documents if previously submitted. If Form I-864 and supporting documents were submitted previously, the evidence will be in the file which is sent to the Field Office. NBC recommends reaching out to the local Field Office for further information.

We will follow up on modifying the language on the interview notice.

4. Members are receiving separate biometric appointments for I-765s and I-485s—and the appointments are set separately, generally a couple days apart.

This occurs under three circumstances:

- When the two receipts are processed separately by the Lockbox because the two applications will be processed by two different Service Centers.
- When the applications are received separately.
- When the personal information on the two applications are not exactly the same or the data is not entered the same.

Applicants affected by one of the reasons above will receive separate appointment notices for each of the applications.

The applicant need only appear at one appointment. The applicant will be processed for both applications as long as he/she brings both appointment notices to the appointment.

- a) If the foreign national *cannot* attend the first of the two separate appointments, but can attend the second, must he/she still seek re-scheduling of the first, or can he/she just appear at the second appointment and take care of both biometric appointment obligations at once?

No rescheduling of the first appointment is required; however, it is advisable for the applicant to notify USCIS of his/her inability to attend the first appointment. This can be done by calling the National Customer Service Center (NCSC) at 1-800-375-5283. This is particularly important if there is significant time between the two appointments. The applicant will be processed for both applications as long as he/she brings both appointment notices to the appointment.

- b) If the foreign national *can* attend the first of the two separate appointments, can he/she anticipate being able to take care of both biometric appointment obligations at once so they needn't have to arrange to miss work/school/childcare twice for these brief appointments?

Attendance at only one appointment is necessary. The applicant will be processed for both applications as long as he/she brings both appointment notices to the appointment.

- c) Is MSC aware that the turnaround time from the time these appointments are set until they occur is exceedingly short? In a recent (but common) scenario: the notice was mailed by CIS on Thursday, May 28; and received at our office on Saturday, 5/30: for an appointment for Wednesday morning, June 3. The extremely brief turnaround time may actually add to CIS's workload as sometimes people's schedules can't be revised to accommodate attending the biometric appointments on (as here) effectively two days' notice (Monday until Wednesday).

ASC appointment notices are mailed to both applicant and attorney simultaneously. The applicant will receive notification of his/her appointment independently.

We understand that applicants are receiving ASC appointment notices with a short turnaround time. We plan to follow up with Headquarters to discuss.

It is important to USCIS that applicants receive prompt biometric processing. The ASC Program is currently experiencing little backlog. As a result, an applicant's ASC appointment date may be in as few as ten days from receipt of an application. The ASC Branch makes every effort to balance expeditious biometric processing with ensuring the applicant receives sufficient notice.

If the applicant is unable to attend the appointment due to insufficient notice, he/she may reschedule the appointment by following the instructions on his/her appointment notice.

5. The type of cases your Center handles seems to be constantly expanding. Can you provide a comprehensive list of what NBC handles? Which of these, if any, will be being phased out in the foreseeable future? Are there any more types of cases that will be coming your way?

Application Type	NBC Pre-Processing	NBC Adjudication	Field Office Adjudication
I-90	X	X	
I-102	X	X	
I-130	X	X	X
I-131	X	X	
I-212	X	X	
I-539	X	X	
I-765	X	X	
I-800A	X	X	
I-800	X	X	
I-817	X	X	
I-824	X	X	
I-290B	X	X	X
I-485 Family Based	X	(Statutory and Abandonment Denials Only)	X
I-485 Employment Based	(Makes the case available in the scheduling queue)	(Abandonment Denials Only)	X
I-601	X	X	
I-687	X	X	
I-690	X	X	

N-400	X	(Abandonment Denials Only)	X
NWIRP	X	X	X

We do not anticipate any changes in our current workloads for NBC in the foreseeable future.

6. Recently members are noticing that the online status of the case for some MSC cases cannot be found. The system indicates “Your case cannot be found at this time”. Is there any way this can be corrected? The online case status is heavily used and relied upon by clients and when they cannot access their case or it is “not found” they become frantic.

HQ’s has informed us that this is a recurring problem that they are working on. Other avenues to determine the status of a case include:

- Call the National Customer Service Center (NCSC) at 1-800-375-5283
- Contact your Florida Bar liaison
- Make an Infopass appointment at the Field Office of jurisdiction
- (If you did not receive a receipt notice for the form filed, contact Lockboxsupport@dhs.gov)

7. There appears to be an increasing trend where clients are receiving their advance paroles directly. Previously all advance paroles were sent to the attorney of record. Are you moving towards sending the advance paroles directly to the Beneficiary even when there is a G-28 on file?

In accordance with 8 CFR 103.2(b)(19), NBC has always sent the travel document, I-512, to the applicant even when there is a G-28 on file. It is the same practice for LPR and EAD cards. These cards are mailed to the applicant not to the attorney of record.

Title 8 Code of Federal Regulations, 103.2(b)(19) *Notification*. An applicant or petitioner shall be sent a written decision on his or her application, petition, motion, or appeal. Where the applicant or petitioner has authorized representation pursuant to §103.2(a), that representative shall also be notified. *Documents produced after an approval notice is sent, such as an alien registration card, shall be mailed directly to the applicant or petitioner. [emphasis added]*

8. We have noticed that N-400s are being processed very quickly. Do you expect this to continue?

Yes, NBC anticipates the current processing times to remain the same. NBC does not anticipate any significant change in current processing times based on the current volume of N-400 applications received at the Lockboxes.

9. Will your FY2010 staffing levels remain constant? Expand or contract?

We continue to work with HQ on staffing levels for 2010. We do not currently anticipate any changes from our current levels.

10. Do you have any issues or advice that you would like to be addressed to our members?

NBC has no issues or advice for the Florida Bar members at this time.

11. Will NBC be involved in the upcoming retiring of files at NARA?

NBC will not be involved.

12. If an applicant is in removal proceedings, is it NBC policy to deny or administratively close the I-485?

The applicant will receive a decision on the application or an interview notice.