

Minutes of the Texas Service Center/Florida Bar Liaison Meeting  
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Texas Service Center

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I-485

1. How long should members wait to follow-up on cases e-mailed through the streamline e-mail system when the priority dates are current?

Action should be expected within 90 days. However TSC just located about 10,000 I-140/I-485 cases which had not been taken into consideration with regard to priority dates. This did have a slight effect on the EB-3 visa numbers becoming unavailable.

The streamline system should now only be used for cases where the priority dates are current, i.e. EB-1 and EB-2 current cases.

There is also a new fingerprint program – REFRESH. If fingerprints expire they will be automatically “refreshed” through this new system which will alleviate the need for most applicants to be fingerprinted again.

2. Is it possible for TSC to issue an RFE before denying under CSPA? A member has reported that in two cases an I-824 was filed within one year of visa eligibility but the cases were denied without an RFE being issued?

No. If a petition is missing initial evidence then the Officer can issue a denial without issuing an RFE.

3. Can you provide an approximation of the number of EB-3 cases that TSC has pending with priority dates that are current?

At the time of the meeting the priority dates were still current as of March 1, 2003 (April Visa Bulletin). TSC advised that they did not know exactly how many cases had current priority dates but it was minimal.

4. There are a number of cases where one or two members of a family have not been approved even though the priority date is current and the principal and other family members were approved some time ago. What is the best way to bring these cases to your attention? These family members tend to be a minor child who may not have been fingerprinted and who has now turned 14.

Contact NCSC or use the Streamline e-mail system.

#### I-140

5. What is the best way to bring I-140 petitions still pending from 2007 to your attention? Should members use the Streamline e-mail process?

TSC has requested that members do not use the Streamline e-mail process for EB-3 I-140s at the present time. It may be used for EB-1 and EB-2 I-140 petitions.

6. Is TSC treating appeals on Forms I-290B as Motions to Reopen first (pursuant to the regulations) or are they forwarding them directly to AAO?

If a Motion to Reopen is marked as an "appeal" on Form I-290B then TSC will review and if the facts warrant it the Motion will be approved. If TSC reviews but elects to not approve the case the appeal will be forwarded to the AAO.

7. How long is it currently taking TSC to process Motions to Reopen and Reconsider?

120-180 days. If a case has taken longer than that to be transferred then members should contact NCSC.

8. If a Motion to Reopen that is marked as an appeal on the Form -290B as an "appeal" is denied how long does it take for the case to be forwarded to the AAO?

120-180 days.

9. Increasingly, there are instances where I-485s need to be "moved" from riding on the I-140 with which they were filed to ride with another I-140. For example:

- a) An I-140 based on an approved labor certification application was filed some time ago. More recently, when the priority date became current, the principal alien and family member's I-485s were filed *along with a new I-140 advising that the petitioner had changed its name*. The petitioner had *not* changed its EIN or any other aspect of its business. The simultaneously-filed I-140 was denied in the last couple weeks for failure to attach an original, approved labor certification bearing the name of the petitioner. The petitioner wants to file a Service Motion to re-open and re-consider, but would like to ensure that the I-485s will not be denied upon the passage of the appeal period for the denial of the I-140—but there is no way to make this happen. Mail to TSC is returned with notes to contact the 1 800 number; and calls to the 1 800 number result in officers advising that this is not a permissible request.

TSC has requested information on this file but also stated that petitions should be marked **boldly with the words AMENDED PETITIONJ**.

- b) EB3 I-140/I-485 was filed for a principal and spouse during the surge. Since then, the priority date has retrogressed, and adjustment is not currently possible. However, since the time of the surge, an EB2 labor certification application and I-140 for the spouse have both been approved. The parties would like to ensure that the pending I-485s are adjudicated now riding on the current EB2 I-140 approval. But mail to TSC

requesting this is returned with notes to contact the 1 800 number; and calls to the 1 800 number result in officers advising that this is not a permissible request.

How can members ensure that I-485 applications are tied to I-140s filed on behalf of a spouse or filed to capture an earlier priority date?

Individual cases should be brought to the attention of the Florida Bar Liaison who will forward them to TSC.

#### I-131 Advance Paroles

10. We are seeing the delays between approval dates and mailing dates again. For example, an advance parole was approved on 1/21/09, but not postmarked until three weeks later on 2/10/09. Is there any way to reduce this gap?

There was a short time when there was a mailing gap as the system was down. Mailing gaps can also occur due to the use of contractors.

#### Biometrics

11. What is the timeframe for biometric appointments to be scheduled for Adjustment cases filed with the court? Members report that months go by without biometrics being scheduled which in some cases means a continuance has to be requested. Is there any other procedure available for these types of cases as it does not appear that the scheduling of the biometrics is triggered at the time filing? Can the applicants do walk-in appointments if they have a TSC receipt notice/proof of payment of filing fees?

The timeframe is based on individual locations and the Miami ASCs have some of the longest waiting times. TSC will check the system periodically for cases filed with the Court but does not believe that walk-in appointments will be available.

#### I-90

12. For I-90 cases filed under "b" or "d" for administrative error, there is no filing fee so when we have filed these cases, we have not received any receipt notices (we just have proof of mailing). Is this normal procedure not to issue a receipt notice in these cases? How do we follow up with no case number?

Receipts for "d" filings are issued but there is no receipt issued for "b" filings. However the backlog on these cases is down to about 300 (as of time of meeting).

#### NCSC

13. To whose attention do we bring information when case status shown on the CIS website has not been updated i.e. a response to an RFE has been filed? Example: I-485 SRC0723352524. The response to the RFE was filed but the on-line status has not been updated.

#### Contact NSCS.

14. There are some I-485 cases where, every time TSC issues an EAD or advance parole, the related, long-pending I-485 case appears on the on-line status site as "the card has

been made and mailed to you." 1 800 line inquiries can't seem to correct the problem and the aliens think their green cards have been approved!

This appears to be an error where the information may be input into the wrong case type, i.e. I-765 information input into I-485 information in the on-line case status.

15. Sometimes, simple things cause the greatest frustration. How can members get TSC's attention in extreme cases where CIS just doesn't seem to get the parties' addresses corrected as requested repeatedly over the 1 800 line *and* as contained in AR-11s?

Contact NCSC.

#### EB-5 Petitions

16. Is there any way for TSC to fast-track EB-5 adjustments?

EB-5 petitions have been or are in the process of being transferred to the California Service Center.

17. Is TSC retaining jurisdiction over the petitions to remove conditional residence for EB-5 or transferring these to California? If TSC is retaining jurisdiction, can TSC please put these on a separate track? By the time TSC looks at these, the information is stale-- businesses, especially those with huge investments, have to have the ability to make changes, and with these pending for a long time, it ties the EB-5 investors hands and freezes the investment.

No - all EB-5 petitions and related applications and petitions are being transferred to California Service Center.