

New USCIS Policies Mean Having an Attorney Is More Important Than Ever

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On September 11, 2018 US Citizenship and Immigration Services (USCIS) implemented a new policy that changes the way adjudicators respond to applications that are submitted without enough evidence. Previously, if an applicant submitted an immigration application without enough or proper evidence, USCIS would send them a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID) to tell the applicant what information or documentation was missing and give them an opportunity to submit additional evidence.



Under the new policy, adjudicators may now deny applications, petitions, or requests when “all required initial evidence is not submitted with the benefit request.” According to USCIS, this memo is not intended “not to penalize filers for innocent mistakes or misunderstandings,” but rather to discourage “discourage frivolous or substantially incomplete filings... and to encourage applicants, petitioners, and requestors to be diligent in collecting and submitting required.”

What's the difference between receiving a RFE or NOID and receiving a denial?

If you receive a RFE or NOID in response to an immigration application, you are given a deadline in which to provide missing information or to clarify issues that may have been unclear in your initial filing. If you respond to the RFE or NOID, your case will continue being processed.

If your case is denied, you lose the money you paid to immigration. If you are applying for an immigrant visa in a preference category, or a benefit with a waiting list like the U Visa, you lose your place in line. If you are filing an application that is time-sensitive, a denial could also mean missing an important deadline. If you decide to apply again—if you're still eligible—you will have to pay the filing fee and start all over again. In certain circumstances, USCIS may even refer you to ICE to begin removal proceedings (*watch for a newsletter on this topic next month*).

What cases does this policy affect?

The new policy will be applied to cases that were filed on or after September 11, 2018. Cases that were received by USCIS before September 11, 2018 will not be affected.

Because of other existing regulatory and policy guidance, the following case types will NOT be subjected to the new policy:

- Deferred Action for Childhood Arrivals (DACA)
- Asylum
- Refugee
- NACARA

How do I know if I've submitted all the correct information?

You can find detailed instructions and checklists on USCIS's website. However, for the best assurance that your application is properly filed, we recommend hiring an experienced attorney.

For appointments call 206-774-8758 or email
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