

New USCIS Power to Issue Notices to Appear (NTAs)

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Starting on October 1, 2018, USCIS may now issue Notices to Appear (NTAs) in certain cases when an immigration application is denied. Here are the facts you need to know:

What is a Notice to Appear?

A Notice to Appear (NTA) is a document given to a noncitizen instructing them to appear before an immigration judge. This is the beginning of removal proceedings in immigration court.

When can USCIS issue a NTA?

According to the new policy, USCIS will issue a NTA when an immigration application is denied and the applicant is deemed removable. "Removable" individuals include:

- Individuals who are not lawfully present in the U.S.
- Individuals who have been charged with or convicted of certain criminal offenses, and
- Individuals who have committed fraud, misrepresentation, or public benefit abuse.

What types of cases does this policy affect?

USCIS plans to implement this policy in increments, beginning with Form I-485, Application to Register Permanent Residence or Adjust Status, and Form I-539, Application to Extend/Change Nonimmigrant Status.

USCIS will apply this policy when adjudicating cases starting on October 1, 2018, regardless of when the application was filed.

What types of cases are NOT affected?

For now, employment-based petitions and humanitarian applications (such as the U Visa) are not affected. In a separate policy guidance, USCIS indicated that they will not apply the new NTA policy to DACA applications.

My application was returned to me because I submitted the incorrect filing fee. Does this mean I'm going to receive a NTA?

If you submit an application with the wrong filing fee, your application will be rejected and returned to you. This is different from a denial. A rejected application is not a reason for USCIS to issue a NTA.

What should I do if I receive a NTA?

Contact an immigration attorney immediately. You may be eligible for some type of relief from removal, which would allow you to stay in the U.S. legally.

Does this mean it's too dangerous to submit immigration applications?

The new NTA policy presents serious risks to applicants who are in the U.S. without lawful status, but a good immigration attorney can greatly reduce your risk of having an application denied. It is more important than ever to file your immigration application with an experienced and trusted attorney!



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