

Department of Homeland Security

§ 245a.10

EMSP;—Continued

	GSA Program Num- bers
Department of Labor:	
Senior Community Service Employment Program (SCSEP) .....	17.235
Office of Personnel Management:	
Federal Employment for Disadvantaged Youth—Part-Time (Stay-in-School Program) .....	27.003
Federal Employment for Disadvantaged Youth—Summer (Summer Aides) .....	27.004
Small Business Administration:	
Small Business Loans (7(a) Loans) .....	59.012
Department of Energy:	
Weatherization Assistance for Low-Income Persons .....	81.042
Department of Education:	
Patricia Roberts Harris Fellowships (Graduate and Professional Study; Graduate and Professional Study Opportunity Fellowships; Public Service Education Fellowships) .....	84.094
Legal Training for the Disadvantaged (The American Bar Association Fund for Public Education) .....	84.136
Allen J. Ellender Fellowship Program (Ellender Fellowship) .....	84.148
Legal Services Corporation:	
Payments to Legal Services Corporation .....	.....

[54 FR 29437, July 12, 1989, as amended at 54 FR 49964, Dec. 4, 1989]

§ 245a.6 Treatment of denied application under part 245a, Subpart B.

If the district director finds that an eligible alien as defined at § 245a.10 has not established eligibility under section 1104 of the LIFE Act (part 245a, Subpart B), the district director shall consider whether the eligible alien has established eligibility for adjustment to temporary resident status under section 245A of the Act, as in effect before enactment of section 1104 of the LIFE Act (part 245a, Subpart A). In such an adjudication using this Subpart A, the district director will deem the “date of filing the application” to be the date the eligible alien establishes that he or she was “front-desked” or that, though he or she took concrete steps to apply, the front-desking policy was a substantial cause of his or her failure to apply. If the eligible alien has established eligibility for adjustment to temporary resident status, the LIFE Legalization application shall be deemed converted to an application for temporary residence under this Subpart A.

[67 FR 38350, June 4, 2002]

Subpart B—Legal Immigration Family Equity (LIFE) Act Legalization Provisions

SOURCE: 66 FR 29673, June 1, 2001, unless otherwise noted.

§ 245a.10 Definitions.

In this Subpart B, the terms:

*Eligible alien* means an alien (including a spouse or child as defined at section 101(b)(1) of the Act of the alien who was such as of the date the alien alleges that he or she attempted to file or was discouraged from filing an application for legalization during the original application period) who, before October 1, 2000, filed with the Attorney General a written claim for class membership, with or without filing fee, pursuant to a court order issued in the case of:

- (1) *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*CSS*);
- (2) *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (*LULAC*); or
- (3) *Zambrano v. INS*, vacated, 509 U.S. 918 (1993) (*Zambrano*).

*Lawful Permanent Resident (LPR)* means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

*LIFE Act* means the Legal Immigration Family Equity Act and the LIFE Act Amendments of 2000.

*LIFE Legalization* means the provisions of section 1104 of the LIFE Act and section 1503 of the LIFE Act Amendments.

*Prima facie* means eligibility is established if an “eligible alien” presents a properly filed and completed Form I-485 and specific factual information which in the absence of rebuttal will establish a claim of eligibility under this Subpart B.

*Written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14 that provides the Attorney General with notice that

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the applicant meets the class definition in the cases of *CSS*, *LULAC* or *Zambrano*.

[66 FR 29673, June 1, 2001, as amended at 67 38350, June 4, 2002; 67 FR 66532, Nov. 1, 2002]

### § 245a.11 Eligibility to adjust to LPR status.

An eligible alien, as defined in § 245a.10, may adjust status to LPR status under LIFE Legalization if:

(a) He or she properly files, with fee, Form I-485, Application to Register Permanent Residence or Adjust Status, with the Service during the application period beginning June 1, 2001, and ending June 4, 2003.

(b) He or she entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988;

(c) He or she was continuously physically present in the United States during the period beginning on November 6, 1986, and ending on May 4, 1988;

(d) He or she is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Act, except as provided in § 245a.18, and that he or she:

(1) Has not been convicted of any felony or of three or more misdemeanors committed in the United States;

(2) Has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(3) Is registered or registering under the Military Selective Service Act, if the alien is required to be so registered; and

(e) He or she can demonstrate basic citizenship skills.

[66 FR 29673, June 1, 2001, as amended at 67 38350, June 4, 2002]

### § 245a.12 Filing and applications.

(a) *When to file.* The application period began on June 1, 2001, and ends on June 4, 2003. To benefit from the provisions of LIFE Legalization, an alien must properly file an application for adjustment of status, Form I-485, with appropriate fee, to the Service during the application period as described in this section. All applications, whether filed in the United States or filed from

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abroad, must be postmarked on or before June 4, 2003, to be considered timely filed.

(1) If the postmark is illegible or missing, and the application was mailed from within the United States, the Service will consider the application to be timely filed if it is *received* on or before June 9, 2003.

(2) If the postmark is illegible or missing, and the application was mailed from outside the United States, the Service will consider the application to be timely filed if it is *received* on or before June 18, 2003.

(3) If the postmark is made by other than the United States Post Office, and is filed from within the United States, the application must bear a date on or before June 4, 2003, and must be received on or before June 9, 2003.

(4) If an application filed from within the United States bears a postmark that was made by other than the United States Post Office, bears a date on or before June 4, 2003, and is received after June 9, 2003, the alien must establish:

(i) That the application was actually deposited in the mail before the last collection of the mail from the place of deposit that was postmarked by the United States Post Office June 4, 2003; and

(ii) That the delay in receiving the application was due to a delay in the transmission of the mail; and

(iii) The cause of such delay.

(5) If an application filed from within the United States bears both a postmark that was made by other than the United States Post Office and a postmark that was made by the United States Post Office, the Service shall disregard the postmark that was made by other than the United States Post Office.

(6) If an application filed from abroad bears both a foreign postmark and a postmark that was subsequently made by the United States Post Office, the Service shall disregard the postmark that was made by the United States Post Office.

(7) In all instances, the burden of proof is on the applicant to establish timely filing of an application for LIFE Legalization.