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Implementing New Immigration Policy on Referral for Removal/Deportation

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Implementing New Immigration Policy on Referral for Removal/Deportation

On October 1, 2018, U.S. Citizenship and Immigration Services (**USCIS**) will begin implementing updated immigration policy (issued on June 28, 2018) on removal (deportation).

A removal proceeding is initiated by filing a Form I-862, **Notice to Appear (NTA)**

with the Immigration Court. Although U.S. Immigration and Customs Enforcement (**ICE**) and U.S. Customs and Border Protection (**CBP**) have authority to issue NTAs, USCIS may also initiate NTAs.

Generally, NTA issuance applies to following situations:

1. National security cases.

2. USCIS will continue to issue NTAs in the following circumstances:

(a) Termination of **Conditional Permanent Resident** Status and Denials of Form **I-751**, Petition to Remove the Conditions of Residence (8 CFR §§ 216.3, 216.4, 216.5).

(b) Termination of **Conditional Permanent Resident** Status and Denials of Form **I-829**, Petition by **Entrepreneur** to Remove Conditions on Permanent Resident Status (8 CFR § 216.6).

(c) **Termination of refugee status** by the District Director (8 CFR § 207.9).

(d) **Denials** of Nicaraguan and Central American Relief Act (**NACARA**) Section 202 and Haitian Refugee Immigration Fairness Act (HRIFA) adjustment of status applications: 1. NACARA 202 adjustment denials (8 CFR § 1245.13(m)); 2. HRIFA adjustment denials (8 CFR § 245.15(r)(2)(i)).

(e) **Asylum, NACARA Section 203, and Credible Fear cases**

3. Fraud, Misrepresentation, and Abuse of Public Benefits Cases under various circumstances.

(a) **Criminal cases/issues** under various circumstances

4. Denial of N-400 under various circumstances including, but are not limiting to:

(a) Good moral character (GMC) grounds based on the underlying criminal offense, and that the alien is removable.

(b) Ineligible for naturalization such as inadmissible at the time of adjustment or admission to the United States.

5. Upon issuance of an unfavorable decision for an application, petition, or benefit request, and the alien is not lawfully present in the United States, USCIS will issue an

NTA. For examples, I-485 application for adjustment of status, I-539 application to extend or change nonimmigrant status

6. Other miscellaneous circumstances including, but are not limiting to: Upon request by a foreign national on a limited and discretionary basis.

7. The NTA policy issued on June 28, 2018 will not be implemented with respect to employment-based petitions and humanitarian applications and petitions at this time - existing guidance for these case types will remain in effect.

For additional information, please visit:

<https://www.uscis.gov/news/alerts/uscis-begin-implementing-new-policy-memorandum-notices-appear>

and

<https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-P-M-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>

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Aik Wan Kok at Tiya represents companies, employers, individuals and families, located nationwide and internationally, in U.S. Immigration Law. We focus on diverse immigration cases such as extraordinary ability; national interest waiver; PERM; green card; N-400 Naturalization; various waivers; H cases; L executive, manager and specialized knowledge professional; E treaty investor/trader; cases with USCIS, U.S. Department of Labor, U.S. Consulates and National Visa Center.



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