

ADJUSTMENT OF STATUS

INA § 245

INA § 245

- INA § 245(a) - Regular Adjustment
 - INA § 245(c) - Bars to Adjustment
 - INA § 245(i) - Expired Provision
-

INA § 245(a) - Adjustment

- Alien makes application (I-485) (WHEN?)
 - Physical presence in U.S.
 - Inspected, **admitted**, or paroled
 - Immigrant visa **immediately available**
 - Eligible to receive immigrant visa

 - Exercise of discretion
-

INA § 245(c) - Bars to Adjustment

- Alien crewman
 - Alien who accepted unauthorized employment or was unlawful status when application filed (exceptions)
 - Alien in transit without visa
 - Any alien other than an immediate relative who entered under VWP
 - EXCEPTIONS
-

INA § 245(i) - Expired Provision

- Adjustment filed before April 30, 2001
 - Entered without inspection
 - Beneficiary of a visa petition or a labor cert application
-

Adjustment Exercise pp. 658-59

- Nora
 - Dennis
 - Zelda
-

Nora

Gary has obtained labor certification for a child tutor, Nora, a British national, who has actually been working for the family for several years after entering without inspection from Canada. Gary filed the labor certification application several years ago. Nora's priority date has just been reached. Nora has never been authorized to work in the United States.

Dennis

Nora has two siblings in the United States. One is her brother, Dennis, who has worked without authorization as a cook in a restaurant since being admitted as B-1 business visitor four months ago. His authorized stay expired 30 days ago. Dennis has just married Vera, a U.S. Citizen, who wants to help him get a green card.

Zelda

Nora also has a sister, Zelda, who was admitted in F-1 status several years ago to study at Duke University, where she graduated with a masters degree a few months ago. Zelda was then authorized by DHS to undertake 12 months of "practical training" with a firm in Durham, (an authorized complement to her schooling, which is often granted F-1 students). After a few weeks, however, she quit following a dispute with her boss. She then took a job with a local restaurant and has been working without authorization ever since. Before graduation, Zelda accepted a permanent job offer from a U.S. biomedical engineering firm, contingent upon proper immigration approvals. The firm filed for a labor certification for Zelda a few months ago, and that application has just been approved

Can DHS take away adjustment?

- INA § 246(a)
-