

or she may submit a statement as to the name and location of the issuing Federal, State, or local government agency, the type of document and the date on which it was issued.

(f) *Other relevant document(s) and evaluation of evidence.* The adjudicator will consider any other relevant document(s) as well as evaluate all evidence submitted, on a case-by-case basis. The Service may require an interview when necessary.

(g) *Accuracy of documentation.* In all cases, any doubts as to the existence, authenticity, veracity, or accuracy of the documentation shall be resolved by the official government record, with records of the Service having precedence over the records of other agencies. Furthermore, determinations as to the weight to be given any particular document or item of evidence shall be solely within the discretion of the adjudicating authority.

[67 FR 78674, Dec. 26, 2002]

## PART 1246—RESCISSION OF ADJUSTMENT OF STATUS

Sec.

1246.1 Notice.

1246.2 Allegations admitted; no answer filed; no hearing requested.

1246.3 Allegations contested or denied; hearing requested.

1246.4 Immigration judge's authority; withdrawal and substitution.

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1246.8 [Reserved]

1246.9 Surrender of Form I-551.

AUTHORITY: Authority: 8 U.S.C. 1103, 1254, 1255, 1256, 1259; 8 CFR part 2.

SOURCE: 62 FR 10385, Mar. 6, 1997, unless otherwise noted. Duplicated from part 246 at 68 FR 9842, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1246 appear at 68 FR 9846, Feb. 28, 2003, and 68 FR 10359, Mar. 5, 2003.

### § 1246.1 Notice.

If it appears to a district director that a person residing in his or her district was not in fact eligible for the adjustment of status made in his or her case, or it appears to an asylum office director that a person granted adjustment of status by an asylum officer

pursuant to 8 CFR 1240.70 was not in fact eligible for adjustment of status, a proceeding shall be commenced by the personal service upon such person of a notice of intent to rescind, which shall inform him or her of the allegations upon which it is intended to rescind the adjustment of his or her status. In such a proceeding the person shall be known as the respondent. The notice shall also inform the respondent that he or she may submit, within thirty days from the date of service of the notice, an answer in writing under oath setting forth reasons why such rescission shall not be made, and that he or she may, within such period, request a hearing before an immigration judge in support of, or in lieu of, his or her written answer. The respondent shall further be informed that he or she may have the assistance of or be represented by counsel or representative of his or her choice qualified under part 292 of this chapter, at no expense to the Government, in the preparation of his or her answer or in connection with his or her hearing, and that he or she may present such evidence in his or her behalf as may be relevant to the rescission.

[62 FR 10385, Mar. 6, 1997, as amended at 64 FR 27881, May 21, 1999]

### § 1246.2 Allegations admitted; no answer filed; no hearing requested.

If the answer admits the allegations in the notice, or if no answer is filed within the thirty-day period, or if no hearing is requested within such period, the district director or asylum office director shall rescind the adjustment of status previously granted, and no appeal shall lie from his decision.

[62 FR 10385, Mar. 6, 1997, as amended at 64 FR 27881, May 21, 1999]

### § 1246.3 Allegations contested or denied; hearing requested.

If, within the prescribed time following service of the notice pursuant to § 1246.1, the respondent has filed an answer which contests or denies any allegation in the notice, or a hearing is requested, a hearing pursuant to § 1246.5 shall be conducted by an immigration judge, and the requirements contained in §§ 1240.3, 1240.4, 1240.5, 1240.6, 1240.7,