



The AOS Discretion Checklist



**How to Prove You Deserve a Green Card
Under the New USCIS Rules**

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HOW TO PROVE YOU DESERVE A GREEN
CARD UNDER THE NEW USCIS RULES

Surviving Heightened Scrutiny
After PM-602-0199
(May 21, 2026)



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This guide was prepared in direct response to USCIS Policy Memorandum PM-602-0199, issued May 21, 2026.

Table of Contents

1. THE NEW REALITY AFTER MAY 2026	4
2. UNDERSTANDING PM-602-0199 IN PLAIN ENGLISH	5
3. THE DANGERS: WHY BASIC FILINGS ARE NOW RISKY	6
4. REAL-WORLD CONSEQUENCES OF A DISCRETIONARY DENIAL	7
5. RED FLAGS CHECKLIST – ADVERSE FACTORS	8
6. HOW USCIS WEIGHS ADVERSE FACTORS	9
7. GREEN FLAGS CHECKLIST – OUTSTANDING EQUITIES	10
8. EXTREME HARDSHIP TO THE U.S. CITIZEN SPOUSE	11
9. ECONOMIC VALUE, CAREER CONTRIBUTIONS & COMMUNITY TIES	12
10. BUILDING YOUR DISCRETIONARY ARSENAL	13
11. DOCUMENTS YOU MUST GATHER IMMEDIATELY	14
12. THE “GOOD GUY” FILE: STRONG AFFIDAVITS THAT WIN CASES	15
13. COMPREHENSIVE EVIDENCE CHECKLIST	16
14. STEP-BY-STEP ACTION PLAN TO FILE SAFELY	17
15. FINAL WARNING & CALL TO ACTION	18

The New Reality

A green card through marriage is **no longer guaranteed** just because your marriage is bona fide and real.

On May 21, 2026, USCIS issued Policy Memorandum **PM-602-0199**, fundamentally shifting how Adjustment of Status (AOS) cases are adjudicated.

Adjustment of Status is now officially:

- A matter of discretion and administrative grace
- An extraordinary form of relief
- Not a right or entitlement

Officers must weigh whether granting AOS serves the best interests of the United States, especially when consular processing abroad is available.⁰¹

Key Takeaway:

You must prove you deserve this privilege by overwhelming any negative factors with strong positive equities.

Understanding PM-602-0199 in Plain English



The memo does not eliminate AOS, but it sends a clear message:

- Consular processing at a U.S. embassy abroad is the **ordinary and expected path**.
- Adjusting status inside the U.S. is an **extraordinary privilege** that skips the normal process.
- Officers are directed to apply **heightened discretionary scrutiny**.
- Even if you meet every eligibility requirement, approval is **not automatic**.

*The memo reaffirms long-standing BIA precedent that AOS is an act of administrative grace. Cases with any immigration violations now require **outstanding equities** to overcome negative factors.*

The Dangers – Why Basic Filings Are Now Risky

Visa overstays, unauthorized work, and preconceived intent are now **heavily weighted negative factors**.

A simple marriage certificate and joint lease are **no longer enough**. Basic I-130 + I-485 packets with red flags face significantly higher denial risk on discretion alone.

Common High-Risk Situations:

- **Overstay exceeding 6 months**
- **Any period of unauthorized employment**
- **Entry on B-1/B-2 tourist visa with intent to marry and stay**
- **Prior CBP or ICE encounters**

Even genuine marriages can be denied purely on discretionary grounds.



Real-World Consequences of a Discretionary Denial



If your AOS is denied on discretion:

- You may be placed in removal (deportation) proceedings
- A 3-year or 10-year unlawful presence bar could be triggered
- You lose the ability to adjust status in the future without leaving the U.S.
- Your U.S. citizen spouse and children face severe emotional, financial, and medical hardship

Filing without a strong discretionary packet is now extremely dangerous. Do not roll the dice with your family's future.

Red Flags Checklist – Adverse Factors

Action:

Be honest in your self-assessment. The more red flags, the stronger your equities must be.

CHECK ALL THAT APPLY.

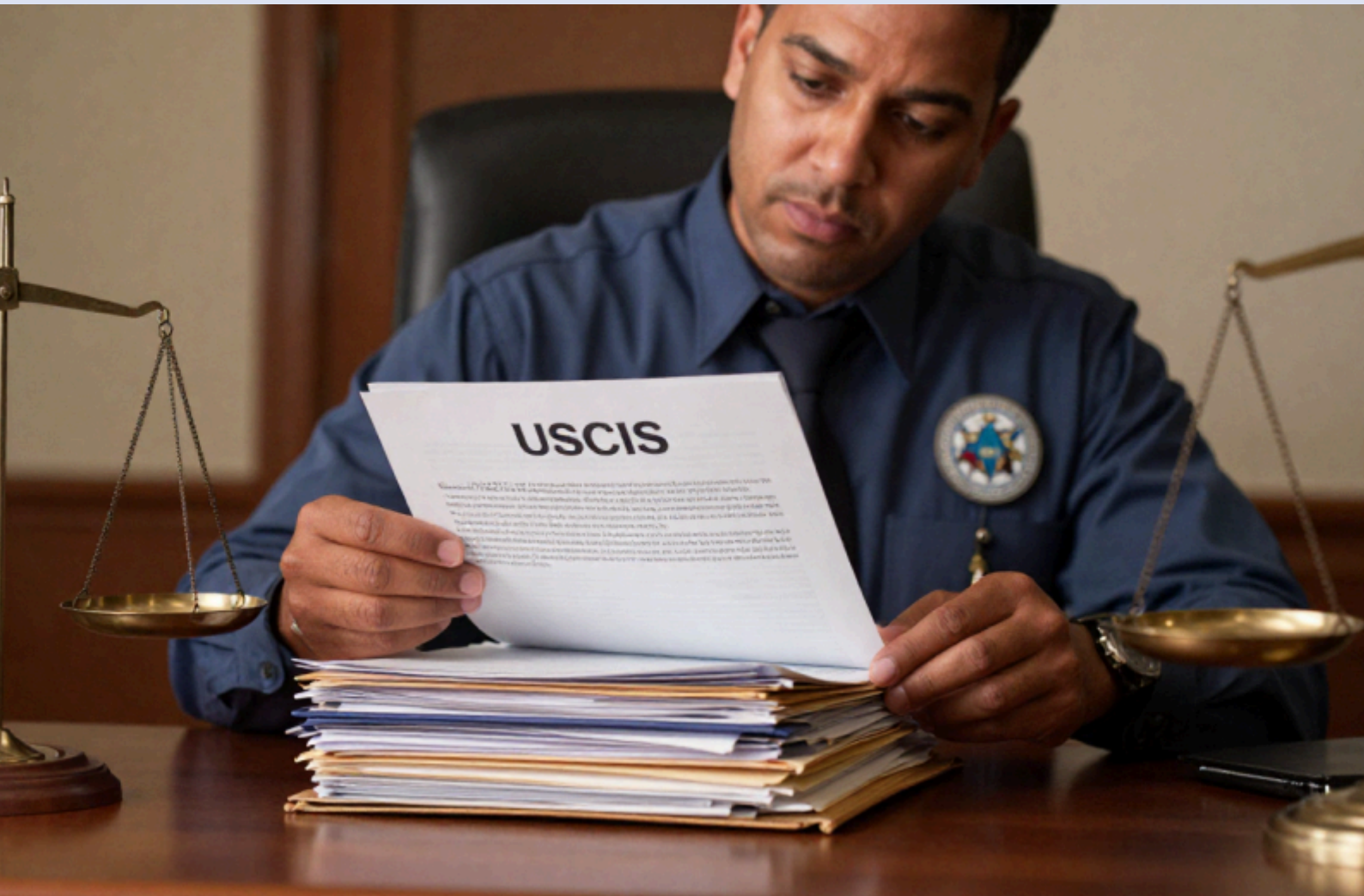


Two or more checks = HIGH RISK under the new rules.

- Overstayed your original visa by more than 6 months
- Worked in the U.S. without employment authorization
- Entered on a B-1/B-2 (or similar) visa with preconceived intent to marry/stay
- Previous encounters with CBP or ICE
- Any arrests, criminal charges, or convictions (even if dropped or expunged)
- Failure to file U.S. taxes on income earned while undocumented
- Any misrepresentation or fraud concerns in prior applications

How USCIS Weighs Adverse Factors

Under PM-602-0199, officers must balance negative factors against your positive equities.



Negative factors are no longer overlooked. You must **affirmatively overcome** them with compelling evidence that approval serves the national interest and that you are an asset to the United States.

*The absence of negative factors alone is **not enough** — you need **outstanding equities**.*

Green Flags Checklist – Outstanding Equities

Build as many of these as possible to win approval:

Extreme Hardship to U.S. Citizen Spouse

- Serious medical/psychological conditions requiring your daily care or U.S. insurance
- Severe financial ruin if the spouse must relocate abroad

Economic & Career Value

- Critical skills or specialized knowledge benefiting the U.S.
- Ownership of a U.S. business that employs American workers
- Long history of tax compliance (even via ITIN)

Community Ties & Moral Character

- Documented volunteer work in your community or church
- Strong letters of support from U.S. citizen leaders, employers, and neighbors

Extreme Hardship to the U.S. Citizen Spouse

This is often the strongest equity. Provide:

- Doctor letters and medical records detailing conditions
- Psychological evaluations showing emotional impact
- Financial affidavits proving inability to maintain lifestyle abroad
- Evidence of impact on any U.S. citizen children (school disruption, health, etc.)

*The hardship must be **extreme**, not just difficult.*



Economic Value, Career Contributions & Community Ties



Economic Contributions:

- Business ownership documents and payroll records showing American jobs created
- Tax transcripts demonstrating years of responsibility
- Letters from employers or clients highlighting your unique value

Community Integration:

- Volunteer certificates, photos, and letters
- Proof of church/mosque/temple involvement
- Affidavits showing deep roots in American society

Building Your Discretionary Arsenal



Basic documents are insufficient. You need a comprehensive discretionary packet that tells a compelling story:

“Why this applicant deserves this extraordinary relief despite any negative factors.”

Include a detailed legal brief (discretionary memorandum) that directly addresses the memo and weighs all factors in your favor.

Documents You Must Gather Immediately

- Medical and psychological records for your U.S. citizen spouse
- Detailed financial statements, property deeds, and debt documentation
- Business records and tax returns/transcripts (ITIN acceptable)
- Volunteer awards, certificates, and community service proof
- Minimum of **5–7 highly detailed affidavits** from U.S. citizens

Start collecting these **today**.



The “Good Guy” File – Strong Affidavits That Win Cases

Powerful affidavits should include:

- Full name, address, and U.S. citizenship status of the writer
- How long and in what capacity they have known you
- Specific examples of your good moral character and contributions
- Why they believe you deserve a green card and would be an asset to the U.S.

Aim for letters from pastors, employers, neighbors, teachers, and community leaders.



Comprehensive Evidence Checklist

- ☐ *Marriage certificate & joint financial records*
- ☐ *Medical/psychological evidence of spouse hardship*
- ☐ *Tax transcripts (3–5 years)*
- ☐ *Business ownership & employment records*
- ☐ *Volunteer/community service documentation*
- ☐ *5–7 affidavits from U.S. citizens*
- ☐ *Personal statement explaining equities*
- ☐ *Detailed discretionary legal brief*
- ☐ *Indexed and tabbed professional packet*

Step-by-Step Action Plan

- Complete the Red Flags vs. Green Flags self-assessment
- Gather all enhanced evidence listed above
- Draft or have an attorney prepare a strong discretionary brief
- Organize a professional, indexed submission packet
- Book a strategy session and file only when your case is bulletproof



Do not file until your packet affirmatively proves you deserve approval.



Don't Risk It.

Filing a basic I-130/I-485 packet with any red flags under the new May 2026 rules is now a dangerous gamble. A discretionary denial can lead to removal proceedings and long-term bars.

Sapochnick Law specializes in building Bulletproof Discretionary Packets for marriage-based and family-based AOS cases in this new environment.

Book a Strategy Session Today to evaluate your equities and create a winning plan.

Text on WhatsApp now 1 (309) 446-7385

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