

**Fall 2004 S. Fla AILA / DMV liaison**

**Present: For AILA, Jeff Devore, Chapter President; Scott Devore, AILA / DMV co-liaison; Mary Kramer, co-chair. For DDL, TN Prakash, Chief Bureau of Financial Responsibility; Diana Baker, Southern Bureau Chief; Charles Gowan, Central Bureau Chief.**

Dear AILA Colleagues,

AILA met with representatives of the Department of Drivers License on Thursday, October 20, 2004. It was a very productive and cordial meeting. This memo includes a list of issues we discussed, including immigration classifications / categories that will entitle non-American citizens and non- LPRs to drivers licenses.

Please note that due to statutory changes, there are some changes to the table of classifications AILA distributed three years ago. Although most of the changes are positive, there is a negative change regarding approved petitions, where the notice date is more than 2 years old. DDL has asked us to convey to the membership that the agency is enforcing state statute and can only approve persons who are lawfully present. PLEASE REVIEW THIS MEMO AND ATTACH ON TOP OF THE PREVIOUS CHART. This memo will also be posted to our AILA website.

By way of summary of the changes, note the following:

Negative. I-130s in preference category. If the individual is not eligible for adjustment of status due to non-availability of a visa number, and the approval notice is more than two years old, a license will not be issued.

Where an I-140 approval notice is more than 2 years old, a drivers license will not be issued.

Positive:

1. An individual with an I-797 receipt for a pending I-130 or I-140 will be issued a 2 year license. In other words, as long as a petition is pending, the individual will be able to get a DL. If the I-797 receipt is more than two years old, please bring a CIS website status statement.
2. A petition approval dated less than two years ago will entitle the person to a 2 year license.
3. Persons in removal proceedings will be issued a 2 year license. Bring the original court notice of hearing (including, if appropriate, the NTA). For BIA cases, bring BIA receipt. (This is a change from past policy).

## TIPS ON PROCEDURES:

1. DMV must see original documents. DMV will scan the document and return the original to the customer.
2. Note that DMV accesses several different databases and has a working relationship with CIS. All receipts, notices, etc.-- all claimed classifications-- are verified by DMV.
3. Any document which bears an expiration date, such as a TPS approval notice, an EAD, or a non-immigrant I-94, will entitle the person to a drivers license that expires on the same date. Therefore, it may be prudent to bring an alternative document, such as an I-485 receipt or a court notice (just for example), because such a document will result in a 2 year license.
4. If your client obtains a license utilizing a certain document / classification, and shortly thereafter realizes (or you realize) that a longer duration license would have been issued with a different document (ie., EAD vs. I-485 receipt), DMV will accept a new application for a new license, but will require a NEW FEE. No switcheroos.
5. If you believe your client is eligible for a license, please send them to the DMV station with appropriate documentation. If the license is not issued or there appears to be a problem, you may contact an AILA liaison, Scott Devore or Mary Kramer, for assistance. Where appropriate, we will contact DMV directly to assist your client with obtaining the license. DMV asks that AILA members utilize Scott and /or Mary so that they do not give out their contact information to 600+ private lawyers.

*Please note. Mary and Scott are attorneys in private practice, like you. We are pleased to assist, but we can only respond to e-mails. No calls. Try to resolve problems first yourselves by going through this memo carefully and writing a letter to the station supervisor for the client to carry with him or her.*

*If you do need our assistance, name, date of birth, and if applicable, drivers license number, as well as preferred station name (like, Coral Gables, Homestead, etc.) are required.*

*Finally, do **not** have a non-lawyer support staff person contact us. We are volunteers. If it is important enough to you and your client to request Scott and Mary's time, it should be important enough for you to write to us directly. We do not do AILA liaison work for your paralegal or secretary. We will not respond to non-lawyer requests for information or assistance.*

6. Attorney Mazen Sukkar, who is to be commended for leading the way with DDL liaison a few years ago, is taking a break from liaison this year. Some of you continue to forward requests for assistance to Mazen, although the committee assignments were distributed and are posted on our website. Please send your e-mail inquiries to Scott or Mary.

7. If an I-130 or I-140 is current (or in an immediate relative category) and entitles the individual to adjust status at the present time, the DMV will inquire as to why the individual has not filed for adjustment of status.

For example, if a person presents an immediate relative I-130 approval notice, but has a removal order, DMV will learn of the removal order, and will not issue a drivers license. If the individual is eligible to adjust, but appears not to have applied yet because of procrastination or financial expense (“I can’t afford the fine”) a drivers license will not be issued.

8. All “nonimmigrant” categories get a temporary license, and the plastic license will come in the mail, generally within 30 days.

9. An I-130 or I-140 derivative beneficiary, if listed on the petition, will be issued a license. Be prepared to present proof of relationship if requested.

10. Labor certification pending. No license will be issued.

### **QUESTIONS SUBMITTED BY AILA MEMBERS**

1. What are “Florida only” licenses?

These are issued to non-Florida residents who have a DL from another state. This individual wants the other state to remain the main jurisdiction.

2. Different rules and requirements at different stations?

Management at DDL will discuss the issue of disparate documentation requirements with the stations through training.

3. Is receipt for I-539 accepted, for example, extension of H, L, E. ect.

Yes.

4. Will DDL accept photocopies of docs?

No. Only in exceptional case where attorney makes contact and explains an unusual circumstance.

5. Can a refugee or parolee with an old I-94 document or stamp indicating parole or refugee status receive a dl? (What if it's really old?)

Case-by-case basis. DDL will ask and perhaps investigate why the persons is here without a more definite status. Has person been denied status?

6. Does DDL deduct the age of the receipt (for example, for an I-485) from the duration of the license? For example, I-797 receipt for I-485 is six months old. Will only a one year and a half license be issued?

No. 2 year license.

7. What documents are required to establish a derivative beneficiary's eligibility for a license, and must they be certified documents?

I-130, page 2, will indicate derivative beneficiary's name.

### **DRIVERS LICENSE CLASSIFICATIONS ACCORDING TO IMMIGRATION DOCUMENT / STATUS**

1. An I-130 or I-140 receipt from CIS, less than two years old. If dated over two years old, requires also a CIS website status confirmation (that petition is still pending adjudication). 2 year license.

2. I-130 or I-140 approval notice from CIS, 2A, 2B or 4<sup>th</sup> preference category, less than 2 years old / dated less than 2 years ago. 2 year license.

3. I-130 approval notice where petitioner is a U.S. citizen (1<sup>st</sup>, 3<sup>rd</sup> or immediate relative), 2 year license. (But, see "Tip #7" above).

4. Notice of court (IJ) hearing; BIA receipt for appeal; BIA briefing schedule. 2 year license.

5. Receipt for I-539 change of non-immigrant status (less than 2 years old). 2 year license.

6. Asylee, withholding of removal. 2 year license.

7. I-485 receipt for adjustment of status pending. 2 year license.

8. Receipt for an I-102 with a photocopy or other proof that at one time an I-94 existed with a non-immigrant entry, and the date of admission would still be valid (not expired). 2 year license.

9. I-94 parole document. 2 year license.
10. Order of supervision. 2 year license.
11. EAD. DL to expire upon date of expiration of EAD.
12. TPS approval notice. Upon expiration of TPS approval.
13. I-94 for non-immigrant stay. Upon expiration of I-94.
14. Applicant for asylum (receipt for I-589). 2 year license.