

San Francisco Immigration Court Question and Answers
from AILA NorCal for the December 8, 2006 Liaison Meeting.

1. In light of the new affidavit of support form, if an I-864 was valid at the time of submission, do we need to submit a new I-864 for the hearing? If not, how long does the old I-864 remain acceptable after it was notarized.

These questions raise issues of law that are best addressed on a case-by-case basis. Accordingly, they should be raised before the judge hearing a case in which they arise, citing the new regulation. Counsel should also confer with DHS counsel as to the DHS position on these issues.

2. Because the new affidavit of support requires only one most recent year of federal income tax return, will the court still require three most recent years of federal income tax returns?

See answer above.

3. CIS regulations at 8 C.F.R. §245.5 states: “the medical examination must have occurred not more than 1 year prior to the date of application for adjustment of status.” Please clarify why the court requires that the medical examination must have occurred 1 year from the date of adjudication / final adjustment hearing?

This question raises issues of law that are best addressed on a case-by-case basis. Accordingly, it should be raised before the judge hearing a case in which it arises, citing pertinent law. Counsel should also confer with DHS counsel as to the DHS position on this issue.

4. What is the procedure for EOIR review of denied TPS applications. When this issue is raised at a master calendar hearing, will the judge set an individual calendar hearing to review a TPS denial? Or, would judges prefer to schedule conferences for possible stipulations between ICE and private counsels on this issue? Are judges willing to re-adjudicate TPS denials at master calendar hearings if the documentation submitted by private counsel is sufficient?

As stated in the response to AILA NorCal’s August 2006 questions, these questions raise issues of law that are best addressed on a case-by-case basis. Accordingly, they should be raised before the judge hearing a case in which they arise.

5. Why are attorneys required to go through security checks at 100 Montgomery? This was not required at 550 Kearny.

Security at 100 Montgomery is significantly improved over that at Kearny, an improvement which the Judges and EOIR personnel welcome. The improved security includes a single point of access, for all non-employees going to the courtrooms. This change has allowed for the installation of the magnetometers and handbag screening